

ONE HUNDREDTH DAY

MORNING SESSION

Senate Chamber, Olympia
Tuesday, April 23, 2019

The Senate was called to order at 10:03 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Ericksen.

The Sergeant at Arms Color Guard consisting of Pages Mr. Phin Mahlum and Mr. Bruno Felipe Juan, presented the Colors.

Page Miss Nejme Aperjis led the Senate in the Pledge of Allegiance.

The prayer was offered by Lt. Colonel Arthur Paine, Chaplain, 194th Wing, Washington Air National Guard, Camp Murray.

The President called upon the Secretary to read the journal of the preceding day.

MOTION

On motion of Senator Liias, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SJM 8015 by Senators Schoesler, Sheldon, Becker, Rivers, Wilson, L., Van De Wege, Walsh, Salomon, Pedersen, Bailey, Ericksen, Warnick, Wagoner, Honeyford, Brown, Padden, O'Ban, Hunt, Fortunato, Short, Conway, King, Hobbs and Lovelett

Concerning pinniped predation of salmon and other fish.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

MOTION

On motion of Senator Liias, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Liias, the Senate advanced to the eighth order of business.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION

8630

By Senators Honeyford, King, Warnick, Brown, and Wagoner

WHEREAS, Greg Stewart of Selah, Washington is retiring after an illustrious and unparalleled 48-year career dedicated to the state of Washington and its fair industry; and

WHEREAS, Greg is an alumnus of Centralia College and Washington State University, where he graduated with a degree in agricultural economics; and

WHEREAS, Greg served in the United States Army from 1966 to 1969, including serving a tour of duty in Vietnam; and

WHEREAS, Greg Stewart and his wife Karen have been married since November 4, 1967, and raised two lovely daughters, Tami and Stephanie; and

WHEREAS, Greg was hired in 1972 by the Central Washington Fair Association to be the Assistant General Manager; and

WHEREAS, In 1973, Greg was appointed General Manager of what was then a five-day fair, overseeing a full-time staff of three people; and

WHEREAS, The Central Washington State Fair, home of the original Washington State Fair and the 120-acre fairgrounds, now known as State Fair Park, have grown considerably under Greg's leadership; and

WHEREAS, The Central Washington State Fair has grown to a 10-day fair with the addition of the Yakima Valley SunDome, State Fair Park Raceway, Yakima County Stadium, and a full-time staff of 25, and 181 event days; and

WHEREAS, Greg is a 21-year member of the Yakima Rotary Club, the Greater Yakima Chamber of Commerce, Yakima Valley Tourism, and the Central Washington Hispanic Chamber; and

WHEREAS, In December 2017, Mr. Stewart received an award from the Yakima Latino Professional Association for his excellent leadership, vision, and community support; and

WHEREAS, Greg was Director and Vice President of Western Fairs Association from 1979-1981, on the International Association of Fairs and Expositions (IAFE) Board from 1997-2003, Executive Treasurer 1997-2000, and Chair in 2002; and

WHEREAS, Greg was the first recipient out of the State of California to be on the Western Fairs Association Board and to receive the Hall of Fame award in 1995, received the Diploma of Fair Management in 1977 from Western Fairs Association, and was on the Western Fairs Association's Board from 1979-1981; and

WHEREAS, In 1984, Greg received the designation of Certified Fair Executive from the International Association of Fairs and Expositions; and

WHEREAS, In 2010, Mr. Stewart received the International Association of Fairs and Expositions Hall of Fame award, the highest honor recognized by the fair industry; and

WHEREAS, Mr. Stewart was the Director of the Mid-West Fairs Association, where members are selected by invitation only; and

WHEREAS, In 2006, Mr. Stewart served as President of the

Mid-West Fairs Association, served on the Washington State Fair Association's Board from 1972-1978, and was President of the Board from 1976-1977; and

WHEREAS, Additionally, he has memberships with the Northwest Showman's League, International Association of Auditorium Managers, is a gold card member with the Professional Rodeo Cowboy Association, and a board member of the Outdoor Amusement Business Association; and

WHEREAS, In October of 2018, Greg received the Lifetime Achievement Award from the Washington State Fairs Association; and

WHEREAS, Enjoying his retirement, he hopes to expand on his love of traveling, boating, horses, and fishing;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate thank and commend Mr. Greg Stewart for his many years of outstanding public service and dedication to the thousands of people he touched in his career and wish him all the best in retirement; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Greg Stewart and his family.

Senators Honeyford, King, Hunt, Schoesler and Warnick spoke in favor of adoption of the resolution.

MOTION

On motion of Senator Becker, Senators Ericksen and O'Ban were excused.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8630.

The motion by Senator Honeyford carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. & Mrs Greg and Karen Stewart who were seated in the gallery and accompanied by their daughter, Mrs. Tami Langston, and her husband, Mr. K.D. Langston.

MOTION

On motion of Senator Liias, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

Senator King moved adoption of the following resolution:

SENATE RESOLUTION 8653

By Senators King, Brown, and Wagoner

WHEREAS, The Perfect Attendance Creates Excellence program began with the Bud Clary Toyota dealership located in Yakima, Washington, and has expanded to dealership locations in Longview and Moses Lake; and

WHEREAS, Yakima Valley currently has 19 elementary

schools participating; and

WHEREAS, Yakima Valley currently has approximately 15,000 kindergarten through fifth grade students participating; and

WHEREAS, Bud Clary donated approximately 650 bicycles to elementary school students in 2018; and

WHEREAS, The Perfect Attendance Creates Excellence program is for elementary schools; and

WHEREAS, Students who complete a school year without leaving school early, being tardy to school, or missing any school days, receive a Perfect Attendance Creates Excellence program certificate; and

WHEREAS, Students with perfect attendance receive a new bicycle and helmet donated by Bud Clary and others; and

WHEREAS, The Perfect Attendance Creates Excellence program donated a total of approximately 850 bicycles to elementary school students in approximately 50 schools in 2018; and

WHEREAS, The Perfect Attendance Creates Excellence program has donated more than 4,000 new bicycles and helmets to elementary school students since the program started in 2012;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate remember and honor the Perfect Attendance Creates Excellence program, founded by Bud Clary, and its dedication to encouraging excellent school attendance in elementary school students in Yakima, Longview, and Moses Lake, Washington.

Senators King, Liias, Sheldon and Takko spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8653.

The motion by Senator King carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Bud Clary Team: Mr. Colby Jones, General Manager, Bud Clary Toyota of Yakima and Ms. Robbie Bustos, Community Outreach Coordinator, Bud Clary Toyota of Yakima, and Perfect Attendance Creates Excellence (PACE) program coordinator who were seated in the gallery and recognized by the senate.

MOTION

On motion of Senator Liias, the Senate reverted to the third order of business.

MESSAGE FROM THE GOVERNOR

April 19, 2019

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentleman:

I have the honor to advise you that on April 19, 2019, Governor Inslee approved the following Senate Bills entitled:

Senate Bill No. 5124 - Relating to appraisal management companies.

Engrossed Substitute Senate Bill No. 5131 - Relating to sales of manufactured/mobile or park model homes at county treasurer's foreclosure or distraint sales.

Engrossed Substitute Senate Bill No. 5148 - Relating to

visible clothing requirements for hunting.

Substitute Senate Bill No. 5175 - Relating to firefighter safety.

Substitute Senate Bill No. 5305 - Relating to electric utility wildland fire prevention.

Second Substitute Senate Bill No. 5352 - Relating to the Walla Walla watershed management pilot program.

Substitute Senate Bill No. 5399 - Relating to child relocation by a person with substantially equal residential time.

Substitute Senate Bill No. 5403 - Relating to safe egress from adult family homes.

Engrossed Senate Bill No. 5439 - Relating to confidentiality of employment security department records and data.

Substitute Senate Bill No. 5461 - Relating to the sharing of information between participants in multidisciplinary coordination of child sexual abuse investigations.

Senate Bill No. 5490 - Relating to transferring duties of the life sciences discovery fund.

Substitute Senate Bill No. 5514 - Relating to first responder agency notifications to schools regarding potential threats.

Substitute Senate Bill No. 5612 - Relating to Holocaust education.

Substitute Senate Bill No. 5621 - Relating to increasing the jurisdictional amount for small claims courts.

Senate Bill No. 5649 - Relating to crimes of sexual assault.

Senate Bill No. 5786 - Relating to administrative efficiencies in research in public institutions of higher education.

Senate Bill No. 5831 - Relating to an employer's payment of indebtedness.

Substitute Senate Bill No. 5885 - Relating to the admissibility of testimony of children in criminal and dependency proceedings.

Engrossed Senate Bill No. 5958 - Relating to public works contracts and interlocal agreements by second-class cities and towns.

Engrossed Substitute Senate Bill No. 5959 - Relating to livestock identification.

Sincerely

/s/

Drew Shirk, Executive Director of Legislative Affairs

MOTION

At 10:31 a.m., on motion of Senator Lias, the Senate was declared to be at ease subject to the call of the President.

Senator McCoy announced a meeting of the Democratic Caucus immediately.

Senator Short announced a meeting of the Republican Caucus immediately.

AFTERNOON SESSION

The Senate was called to order at 12:44 p.m. by President Habib.

MOTION

On motion of Senator Lias, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

The Speaker has signed:

- HOUSE BILL NO. 1026,
- HOUSE BILL NO. 1062,
- SUBSTITUTE HOUSE BILL NO. 1095,
- SUBSTITUTE HOUSE BILL NO. 1284,
- SUBSTITUTE HOUSE BILL NO. 1302,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1450,
- HOUSE BILL NO. 1486,
- SUBSTITUTE HOUSE BILL NO. 1575,
- SECOND SUBSTITUTE HOUSE BILL NO. 1579,
- SUBSTITUTE HOUSE BILL NO. 1602,
- SECOND SUBSTITUTE HOUSE BILL NO. 1603,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646,
- SUBSTITUTE HOUSE BILL NO. 1658,
- SECOND SUBSTITUTE HOUSE BILL NO. 1668,
- HOUSE BILL NO. 1672,
- HOUSE BILL NO. 1714,
- SUBSTITUTE HOUSE BILL NO. 1724,
- HOUSE BILL NO. 1727,
- HOUSE BILL NO. 1730,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1732,
- SUBSTITUTE HOUSE BILL NO. 1734,
- SUBSTITUTE HOUSE BILL NO. 1746,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1772,
- SECOND SUBSTITUTE HOUSE BILL NO. 1784,
- SUBSTITUTE HOUSE BILL NO. 1798,
- HOUSE BILL NO. 1803,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

The Speaker has signed:

- SUBSTITUTE HOUSE BILL NO. 1041,
- SECOND SUBSTITUTE HOUSE BILL NO. 1065,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1105,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130,
- SUBSTITUTE HOUSE BILL NO. 1197,
- HOUSE BILL NO. 1252,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1311,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325,
- SECOND SUBSTITUTE HOUSE BILL NO. 1344,
- HOUSE BILL NO. 1366,
- SUBSTITUTE HOUSE BILL NO. 1377,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1391,
- SECOND SUBSTITUTE HOUSE BILL NO. 1424,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1517,
- SECOND SUBSTITUTE HOUSE BILL NO. 1528,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1543,
- HOUSE BILL NO. 1561,
- SUBSTITUTE HOUSE BILL NO. 1587,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879,
- HOUSE BILL NO. 1900,

SUBSTITUTE HOUSE BILL NO. 1919,
 SUBSTITUTE HOUSE BILL NO. 1953,
 SECOND SUBSTITUTE HOUSE BILL NO. 1973,
 ENGROSSED HOUSE BILL NO. 1996,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5028,
 SUBSTITUTE SENATE BILL NO. 5278,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5288,
 SENATE BILL NO. 5337,
 SENATE BILL NO. 5350,
 SUBSTITUTE SENATE BILL NO. 5474,
 SUBSTITUTE SENATE BILL NO. 5492,
 SUBSTITUTE SENATE BILL NO. 5502,
 SENATE BILL NO. 5566,
 SUBSTITUTE SENATE BILL NO. 5763,
 SUBSTITUTE SENATE BILL NO. 5851,
 SENATE BILL NO. 5865,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5874,
 SENATE JOINT MEMORIAL NO. 8005,
 SENATE JOINT RESOLUTION NO. 8200,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate advanced to the seventh order of business.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Takko moved that Alice Dietz, Senate Gubernatorial Appointment No. 9226, be confirmed as a member of the Lower Columbia College Board of Trustees.

Senator Takko spoke in favor of the motion.

MOTIONS

On motion of Senator Rivers, Senators Ericksen and Sheldon were excused.

On motion of Senator Wilson, C., Senator Salomon was excused.

APPOINTMENT OF ALICE DIETZ

The President declared the question before the Senate to be the confirmation of Alice Dietz, Senate Gubernatorial Appointment No. 9226, as a member of the Lower Columbia College Board of Trustees.

The Secretary called the roll on the confirmation of Alice Dietz, Senate Gubernatorial Appointment No. 9226, as a member of the Lower Columbia College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt,

Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger
 Excused: Senators Ericksen, Salomon and Sheldon

Alice Dietz, Senate Gubernatorial Appointment No. 9226, having received the constitutional majority was declared confirmed as a member of the Lower Columbia College Board of Trustees.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5010,
 SUBSTITUTE SENATE BILL NO. 5017,
 SECOND SUBSTITUTE SENATE BILL NO. 5021,
 SENATE BILL NO. 5022,
 SUBSTITUTE SENATE BILL NO. 5023,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5027,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5035,
 SUBSTITUTE SENATE BILL NO. 5063,
 SENATE BILL NO. 5088,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5127,
 SENATE BILL NO. 5132,
 SUBSTITUTE SENATE BILL NO. 5166,
 SUBSTITUTE SENATE BILL NO. 5181,
 SENATE BILL NO. 5205,
 ENGROSSED SENATE BILL NO. 5210,
 SUBSTITUTE SENATE BILL NO. 5212,
 SUBSTITUTE SENATE BILL NO. 5218,
 SENATE BILL NO. 5233,
 SENATE BILL NO. 5300,
 ENGROSSED SENATE BILL NO. 5334,
 ENGROSSED SECOND SUBSTITUTE
 SENATE BILL NO. 5432,
 SUBSTITUTE SENATE BILL NO. 5689,
 and SECOND SUBSTITUTE SENATE BILL NO. 5903.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hunt moved that Steven Drew, Senate Gubernatorial Appointment No. 9211, be confirmed as a member of the South Puget Sound Community College Board of Trustees.

Senator Hunt spoke in favor of the motion.

APPOINTMENT OF STEVEN DREW

The President declared the question before the Senate to be the confirmation of Steven Drew, Senate Gubernatorial Appointment No. 9211, as a member of the South Puget Sound Community College Board of Trustees.

The Secretary called the roll on the confirmation of Steven Drew, Senate Gubernatorial Appointment No. 9211, as a member of the South Puget Sound Community College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt,

ONE HUNDREDTH DAY, APRIL 23, 2019

Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen, Salomon and Sheldon

Steven Drew, Senate Gubernatorial Appointment No. 9211, having received the constitutional majority was declared confirmed as a member of the South Puget Sound Community College Board of Trustees.

MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5054 with the following amendment(s): 5054 AMH HCW H2684.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.83.170 and 2004 c 262 s 12 are each amended to read as follows:

(1) Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without oral examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

((+)) (a) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

((2)(a)) (b)(i) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

((b)) (ii) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or

((c)) (iii) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as a psychologist in Washington.

(ii) The reciprocity program applies to applicants for a license as a psychologist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate

2019 REGULAR SESSION

to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. A person who holds a probationary license may only practice as a psychologist in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter.

Sec. 2. RCW 18.205.140 and 1998 c 243 s 14 are each amended to read as follows:

(1) An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for certification as a chemical dependency professional in Washington.

(ii) The reciprocity program applies to applicants for certification as a chemical dependency professional who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary certificate to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary certificate and, within a reasonable time period, transition to a full certificate. A person who holds a probationary certificate may only practice as a chemical dependency professional in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary certificate and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter.

Sec. 3. RCW 18.225.140 and 2001 c 251 s 14 are each amended to read as follows:

(1) An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the licensing standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist in Washington.

(ii) The reciprocity program applies to applicants for a license as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for the corresponding license as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. A person who holds a probationary license may only practice in the relevant profession in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, or marriage and family therapists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, and marriage and family therapists under this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 18.83 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals licensed under this chapter and report recommendations to the governor and legislature by November 1, 2020.

(2) This section expires June 30, 2022.

NEW SECTION. Sec. 5. A new section is added to chapter 18.205 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals certified under this chapter and report recommendations to the governor and legislature by November 1,

2020.

(2) This section expires June 30, 2022.

NEW SECTION. Sec. 6. A new section is added to chapter 18.225 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals licensed under this chapter and report recommendations to the governor and legislature by November 1, 2020.

(2) This section expires June 30, 2022."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Senate Bill No. 5054.

Senator O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Senate Bill No. 5054.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5054 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5054, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5054, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen, Salomon and Sheldon

SENATE BILL NO. 5054, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5179 with the following amendment(s): 5179 AMH TR H2766.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.77.065 and 2009 c 29 s 1 are each amended to read as follows:

The board may cause any county road to be constructed or improved by use of county forces as provided in this section.

(1) As used in this section:

(a) "County forces" means regular employees of a county; and

(b) "Road construction project costs" means the aggregate total of those costs as defined by the budgeting, accounting, and reporting system for counties and cities and other local governments authorized under RCW 43.09.200 and 43.09.230 as prescribed in the state auditor's budget, accounting, and reporting manual's (BARS) road and street construction accounts: PROVIDED, That such costs shall not include those costs assigned to the right-of-way account, ancillary operations account, preliminary engineering account, and construction engineering account in the budget, accounting, and reporting manual.

(2) For counties with a population that equals or exceeds four hundred thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) Three million two hundred fifty thousand dollars; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(3) For counties with a population that equals or exceeds one hundred fifty thousand, but is less than four hundred thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) One million seven hundred fifty thousand dollars; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(4) For counties with a population that equals or exceeds thirty thousand, but is less than one hundred fifty thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) One million one hundred fifty thousand dollars; this amount shall increase to one million two hundred fifty thousand dollars effective January 1, 2012; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(5) For counties with a population that is less than thirty thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) Seven hundred thousand dollars; this amount shall increase to eight hundred thousand dollars effective January 1, 2012; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(6) Any county whose expenditure for county forces for road construction projects exceeds the limits specified in this section, is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section.

(7) Notwithstanding any other provision in this section, whenever the construction work or improvement is the installation of electrical traffic control devices, highway illumination equipment, electrical equipment, wires, or equipment to convey electrical current, in an amount exceeding ~~((ten))~~ forty thousand dollars for any one project including labor, equipment, and materials, such work shall be performed by contract as in this chapter provided. This section means a complete project and does not permit the construction of any project by county forces by division of the project into units of work or classes of work."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Senate Bill No. 5179.

Senators Liias and Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Senate Bill No. 5179.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5179 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5179, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5179, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen, Salomon and Sheldon

SENATE BILL NO. 5179, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5260 with the following amendment(s): 5260 AMH ENGR H2378.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1)(a) The legislature finds that the governor has broad authority to proclaim a state of emergency in any area of the state under RCW 43.06.010(12), and to exercise emergency powers during the emergency. These emergency powers have historically included the ability under RCW 43.06.220(1)(h) to temporarily waive or suspend statutory obligations by prohibiting compliance with statutory provisions during a proclaimed state of emergency when the governor reasonably believed it would help preserve and maintain life, health, property, or the public peace.

(b) The legislature further finds that, in response to issues arising from flooding events in 2007, RCW 43.06.220(2) was amended by chapter 181, Laws of 2008, to explicitly authorize the governor to temporarily waive or suspend a set of specifically identified statutes. This amendment has become problematic for subsequent emergency response activities because it has inadvertently narrowed the governor's ability to waive or suspend statutes under RCW 43.06.220(1)(h) by issuing orders

temporarily prohibiting compliance with statutes not expressly identified in RCW 43.06.220(2).

(2) The legislature intends to allow the governor to immediately respond during a proclaimed state of emergency by temporarily waiving or suspending other statutory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency.

Sec. 2. RCW 43.06.220 and 2008 c 181 s 1 are each amended to read as follows:

(1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

~~(e) ((The possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;~~

~~(f))~~ The sale, purchase or dispensing of alcoholic beverages;

~~((g))~~ (f) The sale, purchase or dispensing of other commodities or goods, as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

~~((h))~~ (g) The use of certain streets, highways or public ways by the public; and

~~((i))~~ (h) Such other activities as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspension of statutory obligations or limitations in ~~((any or all of))~~ the following areas ~~((as further specified and limited by chapter 181, Laws of 2008))~~:

(a) Liability for participation in interlocal agreements;

(b) Inspection fees owed to the department of labor and industries;

(c) Application of the family emergency assistance program;

(d) Regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;

(e) Application of tax due dates and penalties relating to collection of taxes; ~~((and))~~

(f) Permits for industrial, business, or medical uses of alcohol; and

(g) Such other statutory and regulatory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, unless (i) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another statewide elected

official, (ii) the waiver or suspension would conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or (iii) the waiver or suspension would conflict with the rights, under the First Amendment, of freedom of speech or of the people to peaceably assemble. The governor shall give as much notice as practical to legislative leadership and impacted local governments when issuing orders under this subsection (2)(g).

(3) In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he or she from time to time deems necessary.

(4) No order or orders concerning waiver or suspension of statutory obligations or limitations under subsection (2) of this section may continue for longer than thirty days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the waiver or suspension of statutory obligations or limitations may be extended in writing by the leadership of the senate and the house of representatives until the legislature can extend the waiver or suspension by concurrent resolution. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

(5) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Zeiger moved that the Senate concur in the House amendment(s) to Senate Bill No. 5260.

Senator Zeiger spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zeiger that the Senate concur in the House amendment(s) to Senate Bill No. 5260.

The motion by Senator Zeiger carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5260 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5260, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5260, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Hasegawa and Short

Excused: Senators Ericksen, Salomon and Sheldon

SENATE BILL NO. 5260, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5266 with the following amendment(s): 5266-S AMH SGOV H2498.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.92.050 and 2018 c 113 s 202 are each amended to read as follows:

(1)(a) Prior to the adoption of its proposed plan, the political subdivision must provide public notice to residents of the subdivision about the proposed remedy to a potential violation of RCW 29A.92.020. If a significant segment of the residents of the subdivision have limited English proficiency and speaks a language other than English, the political subdivision must:

(i) Provide accurate written and verbal notice of the proposed remedy in languages that diverse residents of the political subdivision can understand, as indicated by demographic data; and

(ii) Air radio or television public service announcements describing the proposed remedy broadcast in the languages that diverse residents of the political subdivision can understand, as indicated by demographic data.

(b) The political subdivision shall hold at least one public hearing on the proposed plan at least one week before adoption.

(c) For purposes of this section, "significant segment of the community" means five percent or more of residents, or five hundred or more residents, whichever is fewer, residing in the political subdivision.

(2)(a) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the political subdivision shall order new elections to occur at the next succeeding general election.

(b) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the political subdivision shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(3) If a political subdivision implements a district-based election system under RCW 29A.92.040(2), the plan shall be consistent with the following criteria:

(a) Each district shall be as reasonably equal in population as possible to each and every other such district comprising the political subdivision.

(b) Each district shall be reasonably compact.

(c) Each district shall consist of geographically contiguous area.

(d) To the extent feasible, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(e) District boundaries may not be drawn or maintained in a manner that creates or perpetuates the dilution of the votes of the members of a protected class or classes.

(f) All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to subsection (2) of this section. The governing body may

subsequently choose to stagger the terms of its positions.

(4) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each political subdivision.

(5) No later than eight months after its receipt of federal decennial census data, the governing body of the political subdivision that had previously invoked its authority under RCW 29A.92.040 to implement a district-based election system, or that was previously charged with redistricting under RCW 29A.92.110, shall prepare a plan for redistricting its districts, pursuant to RCW 29A.76.010, and in a manner consistent with this chapter ((113, Laws of 2018)).

"**Sec. 2.** RCW 29A.92.110 and 2018 c 113 s 403 are each amended to read as follows:

(1) The court may order appropriate remedies including, but not limited to, the imposition of a district-based election system. The court may order the affected jurisdiction to draw or redraw district boundaries or appoint an individual or panel to draw or redraw district lines. The proposed districts must be approved by the court prior to their implementation.

(2) Implementation of a district-based remedy is not precluded by the fact that members of a protected class do not constitute a numerical majority within a proposed district-based election district. If, in tailoring a remedy, the court orders the implementation of a district-based election district where the members of the protected class are not a numerical majority, the court shall do so in a manner that provides the protected class an equal opportunity to elect candidates of their choice. The court may also approve a district-based election system that provides the protected class the opportunity to join in a coalition of two or more protected classes to elect candidates of their choice if there is demonstrated political cohesion among the protected classes.

(3) In tailoring a remedy after a finding of a violation of RCW 29A.92.020:

(a) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the court shall order new elections, conducted pursuant to the remedy, to occur at the next succeeding general election. If a special filing period is required, filings for that office shall be reopened for a period of three business days, such three-day period to be fixed by the filing officer.

(b) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the court shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(c) The remedy may provide for the political subdivision to hold elections for the members of its governing body at the same time as regularly scheduled elections for statewide or federal offices. All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to this subsection (3). The governing body may subsequently choose to stagger the terms of its positions.

(4) Within thirty days of the conclusion of any action filed under RCW 29A.92.100, the political subdivision must publish on the subdivision's web site, the outcome and summary of the action, as well as the legal costs incurred by the subdivision. If the political subdivision does not have its own web site, then it may publish on the county web site.

Sec. 3. RCW 28A.343.670 and 2015 c 53 s 15 are each amended to read as follows:

The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.343.300, 28A.343.600, 28A.343.610, 28A.343.660, and ~~((28A.343.670))~~ this section. If the district is changing its director district boundaries under RCW 29A.92.040 or 29A.92.110, all director positions are subject to election at the next regular election.

Sec. 4. RCW 35.22.370 and 1965 c 7 s 35.22.370 are each amended to read as follows:

Notwithstanding that the charter of a city of the first class may forbid the city council from redividing the city into wards except at stated periods, if the city has failed to redivide the city into wards during any such period, the city council by ordinance may do so at any time thereafter: PROVIDED, That there shall not be more than one redivision into wards during any one period specified in the charter unless pursuant to RCW 29A.92.040 or 29A.92.110.

Sec. 5. RCW 35.23.051 and 2015 c 53 s 39 are each amended to read as follows:

General municipal elections in second-class cities shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280: PROVIDED, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: PROVIDED FURTHER, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each second-class city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW 29A.60.280.

In its discretion the council of a second-class city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the ward boundaries from time to time and as provided in RCW 29A.76.010. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be

deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. Additional territory that is added to the city shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

Sec. 6. RCW 35.23.850 and 2015 c 53 s 41 are each amended to read as follows:

In any city initially classified as a second-class city prior to January 1, 1993, that retained its second-class city plan of government when the city reorganized as a noncharter code city, the city council may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards at any time less than one hundred twenty days before a municipal general election. Unless the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, no change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections. However, if these boundary changes result in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

If the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, all council positions are subject to election at the next regular election.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

Sec. 7. RCW 35A.12.180 and 2015 c 53 s 53 are each amended to read as follows:

At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. Unless the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, no change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, That if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

If the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, all council positions are subject to election at the next regular election.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so.

Sec. 8. RCW 52.14.013 and 2012 c 174 s 3 are each amended to read as follows:

The board of fire commissioners of a fire protection district may adopt a resolution by unanimous vote causing a ballot proposition to be submitted to voters of the district authorizing the creation of commissioner districts. The board of fire commissioners shall create commissioner districts if the ballot proposition authorizing the creation of commissioner districts is approved by a simple majority vote of the voters of the fire protection district voting on the proposition. Three commissioner districts shall be created for a fire protection district with three commissioners, five commissioner districts shall be created for a fire protection district with five commissioners, and seven commissioner districts shall be created for a fire protection district with seven commissioners. No two commissioners may reside in the same commissioner district.

No change in the boundaries of any commissioner district shall be made within one hundred twenty days next before the date of a general district election, nor within twenty months after the

commissioner districts have been established or altered unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a boundary change results in one commissioner district being represented by two or more commissioners, those commissioners having the shortest unexpired terms shall be assigned by the commission to commissioner districts where there is a vacancy, and the commissioners so assigned shall be deemed to be residents of the commissioner districts to which they are assigned for purposes of determining whether those positions are vacant.

The population of each commissioner district shall include approximately equal population. Commissioner districts shall be redrawn as provided in chapter 29A.76 RCW. Commissioner districts shall be used as follows: (1) Only a registered voter who resides in a commissioner district may be a candidate for, or serve as, a commissioner of the commissioner district; and (2) only voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire fire protection district may vote at a general election to elect a person as a commissioner of the commissioner district.

When a board of fire commissioners that has commissioner districts has been increased to five or seven members under RCW 52.14.015, the board of fire commissioners shall divide the fire protection district into five or seven commissioner districts before it appoints the two or four additional fire commissioners. The two or four additional fire commissioners who are appointed shall reside in separate commissioner districts in which no other fire commissioner resides.

Sec. 9. RCW 53.16.015 and 2015 c 53 s 82 are each amended to read as follows:

The port commission of a port district that uses commissioner districts may redraw the commissioner district boundaries as provided in chapter 29A.76 RCW or RCW 29A.92.040 or 29A.92.110 at any time and submit the redrawn boundaries to the county auditor if the port district is not coterminous with a county that has the same number of county legislative authority districts as the port has port commissioners. The new commissioner districts shall be used at the next election at which a port commissioner is regularly elected that occurs at least one hundred eighty days after the redrawn boundaries have been submitted. Each commissioner district shall encompass as nearly as possible the same population.

Sec. 10. RCW 53.16.030 and 1992 c 146 s 11 are each amended to read as follows:

Any change of boundary lines provided for in this chapter shall not affect the term for which a commissioner shall hold office at the time the change is made. If the port district commission is redrawing the commissioner district boundaries pursuant to RCW 29A.92.040 or 29A.92.110, each commissioner position is subject to election at the next general election.

NEW SECTION. **Sec. 11.** This act applies retroactively to January 16, 2019.

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Saldaña moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5266.

Senator Saldaña spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Saldaña that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5266.

The motion by Senator Saldaña carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5266 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5266, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5266, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Ericksen, Salomon and Sheldon

SUBSTITUTE SENATE BILL NO. 5266, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5272 with the following amendment(s): 5272-S.E AMH DOGL GEIG 116

On page 2, after line 29, insert the following:

"(9) The Washington state patrol must enter into an intergovernmental agreement, with a county, city, or regional communications agency that operates emergency communications systems, for purposes of interoperable communications, if the following conditions are met:

(a) The intergovernmental agreement is requested by the county, city, or regional communications agency for this purpose; and

(b) The terms and conditions are mutually agreeable."

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Hunt moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5272.

Senators Hunt and Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hunt that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5272.

The motion by Senator Hunt carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5272 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5272, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5272, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Braun, Carlyle, Fortunato, Hasegawa, King, O'Ban, Padden, Rivers, Schoesler and Wilson, L.

Excused: Senators Ericksen, Salomon and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5272, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5287 with the following amendment(s): 5287-S2 AMH SGOV H2761.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 44.05 RCW to read as follows:

(1) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of corrections shall furnish to the redistricting commission the following information regarding the last known place of residence of each inmate incarcerated in a state adult correctional facility:

(a) A unique identifier, other than the inmate's department of corrections number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the inmate's last known place of residence is located.

(2) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of social and health services shall furnish to the redistricting commission the following information regarding the last known place of residence of each person committed to receive involuntary behavioral health treatment under chapter 71.05 RCW:

(a) A unique identifier, other than the person's patient identification number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the resident's last known place of residence is located.

(3) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of children, youth, and families shall furnish to the redistricting commission the following information regarding the last known place of residence of each person residing or placed in a juvenile justice facility:

(a) A unique identifier, other than the person's patient identification number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the resident's last known place of residence is located.

(4) The redistricting commission shall:

(a) Deem each inmate incarcerated in a state adult correctional facility and person residing or placed in a juvenile justice facility or committed to receive involuntary behavioral health treatment under chapter 71.05 RCW as residing at his or her last known place of residence, rather than at the institution of his or her incarceration, residence, or placement;

(b) Regardless of the form in which the information is furnished, refrain from publishing any information regarding a specific inmate's or resident's last known place of residence;

(c) Deem an inmate or resident in state custody in Washington whose last known place of residence is outside of Washington or whose last known place of residence cannot be determined to reside at the location of the facility in which the inmate or resident is incarcerated, placed, or committed; and

(d) Adjust race and ethnicity data in districts, wards, and precincts in a manner that reflects the inclusion of inmates and residents in the population count of the district, ward, or precinct of their last known place of residence.

(5) For purposes of this section:

(a) "Inmate incarcerated in a state adult correctional facility" includes an inmate who has been transferred to a facility outside of Washington to complete his or her term of incarceration.

(b) "Last known place of residence" means the address at which the inmate or resident was last domiciled prior to his or her placement or current term of incarceration, as reported by the inmate or resident.

(c) "Person residing or placed in a juvenile justice facility" and "person committed to receive involuntary behavioral health treatment under chapter 71.05 RCW" include a person who has been transferred to a facility outside of Washington.

(d) "Resident" means persons residing or placed in a juvenile justice facility or committed to receive involuntary behavioral health treatment under chapter 71.05 RCW.

Sec. 2. RCW 44.05.090 and 1990 c 126 s 1 are each amended to read as follows:

In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census as adjusted by section 1 of this act.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as

small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

(3) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5287.

Senator Darneille spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5287.

The motion by Senator Darneille carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5287 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5287, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5287, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Ericksen, Salomon and Sheldon

SECOND SUBSTITUTE SENATE BILL NO. 5287, as

amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5298 with the following amendment(s): 5298-S.E AMH ENGR H2727.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to allow additional information on the labels and labeling of marijuana products to assist consumers in making purchases of these products.

The legislature declares that labels and labeling should not make any disease claim indicating the product is intended for use in the diagnosis, treatment, cure, or prevention of any disease.

The legislature recognizes that it may be useful for a label or labeling to describe the intended role of a marijuana product that contains nutrients or other dietary ingredients, including herbs and other botanicals, to maintain a structure or function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

Sec. 2. RCW 69.50.345 and 2018 c 43 s 2 are each amended to read as follows:

The state liquor and cannabis board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new marijuana producer license applicants. After January 1,

2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the state liquor and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements ~~(, to include but not be limited to:~~

~~(a) The business or trade name and Washington state unified business identifier number of the licensees that produced and processed the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and~~

~~(e) Language required by RCW 69.04.480);~~

(8) In consultation with the department of agriculture and the department, establishing classes of marijuana, marijuana

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor and cannabis board, and prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the state liquor and cannabis board.

Sec. 3. RCW 69.50.346 and 2018 c 43 s 1 are each amended to read as follows:

(1) The label on a marijuana product container, including marijuana concentrates, useable marijuana, or marijuana-infused products, sold at retail(:

(+) must include:

(a) The business or trade name and Washington state unified business identifier number of the marijuana producer and processor ((that produced and processed the marijuana as required pursuant to RCW 69.50.345(7); and

(2) Is);

(b) The lot numbers of the product;

(c) The THC concentration and CBD concentration of the product;

(d) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use;

(e) Language required by RCW 69.04.480; and

(f) A disclaimer, subject to the following conditions:

(i) Where there is one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."; and

(ii) Where there is more than one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(2)(a) For marijuana products that have been identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, the product label and labeling may include a structure or function claim describing the intended role of a product to maintain the structure or any function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(b) A statement made under (a) of this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of, or any information about, the marijuana retailer selling the marijuana product.

(5) A marijuana product is not in violation of any Washington state law or rule of the Washington state liquor and cannabis board solely because its label or labeling contains:

(a) Directions or recommended conditions of use; or

(b) A warning describing the psychoactive effects of the marijuana product, provided that the warning is truthful and not misleading.

(6) This section does not create any civil liability on the part of the state, the liquor and cannabis board, any other state agency, officer, employee, or agent based on a marijuana licensee's description of a structure or function claim or the product's intended role under subsection (2) of this section.

(7) Nothing in this section shall apply to a drug, as defined in RCW 69.50.101, or a pharmaceutical product approved by the United States food and drug administration.

Sec. 4. RCW 82.08.9998 and 2015 2nd sp.s. c 4 s 207 are each amended to read as follows:

(1) ((Beginning July 1, 2016,)) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health in rules adopted under RCW ((69.50.375 to be beneficial for medical use)) 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been issued recognition cards by marijuana retailers with medical marijuana endorsements;

(c) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e)(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an

individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

(2) ~~(From July 1, 2015, until July 1, 2016, the tax levied by RCW 82.08.020 does not apply to sales of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by collective gardens under RCW 69.51A.085 to qualifying patients or designated providers, if such sales are in compliance with chapter 69.51A RCW.~~

~~(3))~~ Each seller making exempt sales under subsection (1) ~~((3))~~ of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

~~((4))~~ (3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

~~((5))~~ (4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer permitted under RCW 69.50.375 to sell marijuana for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "marijuana," "marijuana concentrates," "useable marijuana," "marijuana retailer," and "marijuana-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

Sec. 5. RCW 82.12.9998 and 2015 2nd sp.s. c 4 s 208 are each amended to read as follows:

(1) ~~(From July 1, 2015, until July 1, 2016, the provisions of this chapter do not apply to the use of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a collective garden under RCW 69.51A.085, and the qualifying patients or designated providers participating in the collective garden, if such use is in compliance with chapter 69.51A RCW.~~

~~(2) Beginning July 1, 2016,))~~ The provisions of this chapter do not apply to:

(a) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health in rules adopted under RCW ~~((69.50.375 to be beneficial for medical use))~~ 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(c)(i) Marijuana retailers with a medical marijuana endorsement with respect to:

(A) Marijuana concentrates, useable marijuana, or marijuana-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection ~~((2))~~ (1)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from marijuana retailers with a medical marijuana endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.280. Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.280.

(g) The use of:

(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection ~~((2))~~ (1)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

~~((3))~~ (2) The definitions in RCW 82.08.9998 apply to this section.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5298.

Senators Rivers and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5298.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5298 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5298, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5298, as amended by the House, and

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Brown, Honeyford, Padden and Short

Excused: Senators Ericksen and Salomon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5298, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5318 with the following amendment(s): 5318-S.E AMH ENGR H2875.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that:

(1) In the years since the creation of a legal and regulated marketplace for adult use of cannabis, the industry, stakeholders, and state agencies have collaborated to develop a safe, fully regulated marketplace.

(2) As the regulated marketplace has been developing, Washington residents with a strong entrepreneurial spirit have taken great financial and personal risk to become licensed and part of this nascent industry.

(3) It should not be surprising that mistakes have been made both by licensees and regulators, and that both have learned from these mistakes leading to a stronger, safer industry.

(4) While a strong focus on enforcement is an important component of the regulated marketplace, a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance and in order to allow the board to focus its enforcement priorities on those violations that directly harm public health and safety.

(5) The risk taking entrepreneurs who are trying to comply with board regulations should not face punitive consequences for mistakes made during this initial phase of the industry that did not pose a direct threat to public health and safety.

NEW SECTION. Sec. 2. A new section is added to chapter 43.05 RCW to read as follows:

(1) If, during an inspection or visit to a marijuana business licensed under chapter 69.50 RCW that is not a technical assistance visit, the liquor and cannabis board becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the board and are not subject to civil penalties as provided for in section 3 of this act, the board may issue a notice of correction to the licensee that includes:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the board requires compliance to be

achieved;

(d) Notice of the means to contact any technical assistance services provided by the board or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the liquor and cannabis board issues a notice of correction, it may not issue a civil penalty for the violations identified in the notice of correction unless the licensee fails to comply with the notice.

NEW SECTION. Sec. 3. A new section is added to chapter 69.50 RCW to read as follows:

(1) The liquor and cannabis board may issue a civil penalty without first issuing a notice of correction if:

(a) The licensee has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule;

(b) Compliance is not achieved by the date established by the liquor and cannabis board in a previously issued notice of correction and if the board has responded to a request for review of the date by reaffirming the original date or establishing a new date; or

(c) The board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product to the illicit market or sales across state lines;

(ii) Furnishing of marijuana product to minors;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;

(iv) The commission of nonmarijuana-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (c)(i) through (c)(iv) of this subsection (1).

(2) The liquor and cannabis board may adopt rules to implement this section and section 2 of this act.

Sec. 4. RCW 69.50.342 and 2015 2nd sp.s. c 4 s 1601 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor and cannabis board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor and cannabis board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor and cannabis board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The state liquor and cannabis board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed marijuana businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 69.50 RCW to read as follows:

(1) The board may grant a licensee's application for advice and consultation as provided in RCW 69.50.342(3) and visit the licensee's licensed premises in order to provide such advice and consultation. Advice and consultation services are limited to the matters specified in the request affecting the interpretation and applicability of the standards in this chapter to the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means, and practices in the licensee's licensed premises. The board may provide for an alternative means of affording consultation and advice other than on-site consultation.

(2) The board must make recommendations on eliminating areas of concern disclosed within the scope of the on-site consultation. A visit to a licensee's licensed premises may not be considered an inspection or investigation under this chapter. During the visit, the board may not issue notices or citations and may not assess civil penalties. However, if the on-site visit discloses a violation with a direct or immediate relationship to public safety and the violation is not corrected, the board may investigate.

(3) This section does not provide immunity to a licensee who has applied for consultative services from inspections or investigations conducted under this chapter or from any inspection conducted as a result of a complaint before, during, or after the provision of consultative services.

(4) This section does not require an inspection of a licensee's licensed premises that has been visited for consultative purposes. However, if the premises are inspected after a visit, the board may consider any information obtained during the consultation visit in determining the nature of an alleged violation and the amount of penalties to be assessed, if any.

(5) Rules adopted under section 6 of this act must provide that violations with a direct or immediate relationship to public safety discovered during the consultation visit must be corrected within a specified period of time and an inspection must be conducted at the end of that time period.

(6) All licensees requesting consultative services must be advised of this section and the rules adopted by the board relating to the voluntary compliance program. Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services in accordance with this section are not subject to inspection pursuant to chapter 42.56 RCW.

(7) The board may adopt rules on the frequency, manner, and method of providing consultative services to licensees. Rules may include scheduling of consultative services and prioritizing requests for the services while maintaining the enforcement requirements of this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 69.50 RCW to read as follows:

(1) The board must prescribe procedures for the following:

(a) Issuance of written warnings or notices to correct in lieu of penalties, sanctions, or other violations with respect to regulatory violations that have no direct or immediate relationship to public safety as defined by the board;

(b) Waiving any fines, civil penalties, or administrative sanctions for violations, that have no direct or immediate relationship to public safety, and are corrected by the licensee within a reasonable amount of time as designated by the board; and

(c) A compliance program in accordance with chapter 43.05 RCW and RCW 69.50.342, whereby licensees may request compliance assistance and inspections without issuance of a penalty, sanction, or other violation provided that any noncompliant issues are resolved within a specified period of time.

(2) The board must adopt rules prescribing penalties for violations of this chapter. The board:

(a) May establish escalating penalties for violation of this chapter, provided that the cumulative effect of any such escalating penalties cannot last beyond two years and the escalation applies only to multiple violations that are the same or similar in nature;

(b) May not include cancellation of a license for a single violation, unless the board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product to the illicit market or sales

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

across state lines;

- (ii) Furnishing of marijuana product to minors;
 - (iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;
 - (iv) The commission of nonmarijuana-related crimes; or
 - (v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or alleged to be, any of the violations identified in (b)(i) through (b)(iv) of this subsection (2);
- (c) May include cancellation of a license for cumulative violations only if a marijuana licensee commits at least four violations within a two-year period of time;
- (d) Must consider aggravating and mitigating circumstances and deviate from the prescribed penalties accordingly, and must authorize enforcement officers to do the same, provided that such penalty may not exceed the maximum escalating penalty prescribed by the board for that violation; and
- (e) Must give substantial consideration to mitigating any penalty imposed on a licensee when there is employee misconduct that led to the violation and the licensee:
- (i) Established a compliance program designed to prevent the violation;
 - (ii) Performed meaningful training with employees designed to prevent the violation; and
 - (iii) Had not enabled or ignored the violation or other similar violations in the past.

(3) The board may not consider any violation that occurred more than two years prior as grounds for denial, suspension, revocation, cancellation, or nonrenewal, unless the board can prove by a preponderance of the evidence that the prior administrative violation evidences:

- (a) Diversion of marijuana product to the illicit market or sales across state lines;
- (b) Furnishing of marijuana product to minors;
- (c) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;
- (d) The commission of nonmarijuana-related crimes; or
- (e) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (a) through (d) of this subsection (3).

Sec. 7. RCW 69.50.331 and 2017 c 317 s 2 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the ~~((state liquor and cannabis))~~ board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The ~~((state liquor and cannabis))~~ board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the ~~((state liquor and cannabis))~~ board may consider any prior criminal ~~((conduct))~~ arrests or convictions of the applicant ~~((including an)), any public safety~~ administrative violation

history record with the ~~((state liquor and cannabis))~~ board, and a criminal history record information check. The ~~((state liquor and cannabis))~~ board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The ~~((state liquor and cannabis))~~ board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the ~~((state liquor and cannabis))~~ board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the ~~((state liquor and cannabis))~~ board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

- (i) A person under the age of twenty-one years;
- (ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;
- (iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or
- (iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The ~~((state liquor and cannabis))~~ board may, in its discretion, subject to ~~((the provisions of))~~ sections 2, 3, and 6 of this act, RCW 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The ~~((state liquor and cannabis))~~ board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the ~~((state liquor and cannabis))~~ board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The ~~((state liquor and cannabis))~~ board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, ~~((and to))~~ receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules ~~((and regulations))~~ the ~~((state liquor and cannabis))~~ board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the ((state liquor and cannabis)) board or a subpoena issued by the ((state liquor and cannabis)) board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the ((state liquor and cannabis)) board. Where the license has been suspended only, the ((state liquor and cannabis)) board must return the license to the licensee at the expiration or termination of the period of suspension. The ((state liquor and cannabis)) board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the ((state liquor and cannabis)) board to implement and enforce this chapter. All conditions and restrictions imposed by the ((state liquor and cannabis)) board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the ((state liquor and cannabis)) board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port authority has the right to file with the ((state liquor and cannabis)) board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The ((state liquor and cannabis)) board may extend the time period for submitting written objections upon request from the authority notified by the ((state liquor and cannabis)) board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the ((state liquor and cannabis)) board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the ((state liquor and cannabis)) board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held

at the request of the applicant, ((state liquor and cannabis)) board representatives must present and defend the ((state liquor and cannabis)) board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the ((state liquor and cannabis)) board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (d) of this subsection, the ((state liquor and cannabis)) board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The ((state liquor and cannabis)) board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(e) The ((state liquor and cannabis)) board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the ((state liquor and cannabis)) board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults,

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

NEW SECTION. Sec. 8. A new section is added to chapter 69.50 RCW to read as follows:

(1) This section applies to the board's issuance of administrative violations to licensed marijuana producers, processors, retailers, transporters, and researchers, when a settlement conference is held between a hearing officer or designee of the board and the marijuana licensee that received a notice of an alleged administrative violation or violations.

(2) If a settlement agreement is entered between a marijuana licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(3) For the purposes of this section:

(a) "Settlement agreement" means the agreement or compromise between a licensed marijuana producer, processor, retailer, researcher, transporter, or researcher and the hearing officer or designee of the board with authority to participate in the settlement conference, that:

(i) Includes the terms of the agreement or compromise regarding an alleged violation or violations by the licensee of this chapter, chapter 69.51A RCW, or rules adopted under either chapter, and any related penalty or licensing restriction; and

(ii) Is in writing and signed by the licensee and the hearing officer or designee of the board.

(b) "Settlement conference" means a meeting or discussion between a licensed marijuana producer, processor, retailer, researcher, transporter, researcher, or authorized representative of any of the preceding licensees, and a hearing officer or designee of the board, held for purposes such as discussing the circumstances surrounding an alleged violation of law or rules by the licensee, the recommended penalty, and any aggravating or mitigating factors, and that is intended to resolve the alleged violation before an administrative hearing or judicial proceeding is initiated.

Sec. 9. RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "CBD product" means any product containing or consisting of cannabidiol.

(e) "Commission" means the pharmacy quality assurance commission.

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include industrial hemp as defined in RCW 15.120.010.

(g)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(h) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(i) "Department" means the department of health.

(j) "Designated provider" has the meaning provided in RCW 69.51A.010.

(k) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(l) "Dispenser" means a practitioner who dispenses.

(m) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(n) "Distributor" means a person who distributes.

(o) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(p) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(q) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the

practitioner.

(r) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(s) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(t) "Isomer" means an optical isomer, but in subsection (ff)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(u) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(v) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(w) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(x) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Industrial hemp as defined in RCW 15.120.010.

(y) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(z) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and

marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(aa) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(bb) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(cc) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(dd) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ee) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (x) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(ff) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(gg) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(hh) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ii) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(jj) "Plant" has the meaning provided in RCW 69.51A.010.

(kk) "Poppy straw" means all parts, except the seeds, of the

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

opium poppy, after mowing.

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(mm) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(nn) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(oo) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(pp) "Recognition card" has the meaning provided in RCW 69.51A.010.

(qq) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(rr) "Secretary" means the secretary of health or the secretary's designee.

(ss) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(tt) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(uu) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or

for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(vv) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

(ww) "Board" means the Washington state liquor and cannabis board.

Sec. 10. RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21, and 2018 c 4 s 9 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(c) Valuable formulae or financial or proprietary commercial

information records received during a consultative visit or while providing consultative services to a licensed marijuana business in accordance with section 5 of this act;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board; and

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information; and

(30) Proprietary information filed with the department of health under chapter 69.48 RCW."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5318.

Senators Rivers and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5318.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5318 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5318, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5318, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Brown, Honeyford and Padden

Excused: Senators Ericksen and Salomon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5318, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284 with the following amendment(s): 5284-S2.E AMH ENGR H2754.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.44.110 and 1995 c 369 s 34 are each amended to read as follows:

(1) Smoke detection devices shall be installed inside all dwelling units:

(a) Occupied by persons other than the owner on and after December 31, 1981; (~~or~~)

(b) Built or manufactured in this state after December 31, 1980;

or

(c) Sold on or after the effective date of this section.

(2) The smoke detection devices shall be designed, manufactured, and installed inside dwelling units in conformance with:

(a) Nationally accepted standards; and

(b) As provided by the administrative procedure act, chapter 34.05 RCW, rules and regulations promulgated by the chief of the Washington state patrol, through the director of fire protection.

(3) Installation of smoke detection devices shall be the responsibility of the owner. Maintenance of smoke detection devices, including the replacement of batteries where required for the proper operation of the smoke detection device, shall be the responsibility of the tenant, who shall maintain the device as specified by the manufacturer. At the time of a vacancy, the owner shall insure that the smoke detection device is operational prior to the reoccupancy of the dwelling unit.

(4)(a) For any dwelling unit sold on or after the effective date of this section that does not have at least one smoke detection device, the seller shall provide at least one smoke detection device in the dwelling unit before the buyer or any other person occupies the dwelling unit following such sale. A violation of this subsection does not affect the transfer of the title, ownership, or possession of the dwelling unit.

(b) Real estate brokers licensed under chapter 18.85 RCW are not liable in any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requirements of this section.

(c) Any person or entity that assists the buyer of a dwelling with installing a smoke detection device, whether they are voluntarily doing so or as a nonprofit, is not liable in any civil, administrative, or other proceeding relating to the installation of the smoke detection device.

(d) Interconnection of smoke detection devices is not required where not already present in buildings undergoing repairs undertaken solely as a condition of sale.

(5)(a) Except as provided in (b) of this subsection (5), any owner, seller, or tenant failing to comply with this section shall be punished by a fine of not more than two hundred dollars.

((~~S~~)) (b) Any owner failing to comply with this section shall be punished by a fine of five thousand dollars if, after such failure, a fire causes property damage, personal injury, or death to a tenant or a member of a tenant's household. All moneys received pursuant to (a) or (b) of this subsection, except for administrative costs for enforcing the fine, shall be deposited into the smoke detection device awareness account created in section 2 of this act. Enforcement shall occur after a fire occurs and when it is evident that the dwelling unit sold on or after the effective date of this section did not have at least one smoke detection device. The following may enforce this subsection:

(i) The chief of the fire department if the dwelling unit is located within a city or town; or

(ii) The county fire marshal or other fire official so designated by the county legislative authority if the dwelling unit is located within unincorporated areas of a county.

(6) For the purposes of this section:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) "Smoke detection device" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation.

NEW SECTION. Sec. 2. A new section is added to chapter 43.44 RCW to read as follows:

The smoke detection device awareness account is created in the custody of the state treasurer. All receipts from fines imposed pursuant to RCW 43.44.110(5) must be deposited into the account. Expenditures from the account may be used only for the purposes of raising public awareness of owners and tenants' duties pertaining to smoke detection devices under RCW 43.44.110 and of the danger to life and property resulting from a failure to comply with those duties and for administrative costs related to enforcement of the fine created in RCW 43.44.110(5)(b). Only the Washington state patrol, through the director of fire protection or the director of fire protection's authorized deputy, may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 3. RCW 64.06.020 and 2015 c 110 s 1 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN

AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . is/ . . . is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

- Yes No Don't know A. Do you have legal authority to sell the property? If no, please explain.
- Yes No Don't know *B. Is title to the property subject to any of the following?
 - (1) First right of refusal
 - (2) Option
 - (3) Lease or rental agreement
 - (4) Life estate?
- Yes No Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?
- Yes No Don't know *D. Is there a private road or easement agreement for access to the property?
- Yes No Don't know *E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property?
- Yes No Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?
- Yes No Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?
- Yes No Don't know *H. Are there any pending or existing assessments against the property?
- Yes No Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?
- Yes No Don't know *J. Is there a boundary survey for the property?
- Yes No Don't know *K. Are there any covenants, conditions, or restrictions recorded against the property?

2. WATER

A. Household Water

- (1) The source of water for the property is:
 Private or publicly owned water system Yes No Don't know
 Private well serving only the subject property Yes No Don't know
 Other water system Yes No Don't know
 Yes No Don't know *If shared, are there any written agreements?
 Yes No Don't know *(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
 Yes No Don't know *(3) Are there any problems or repairs needed?
 Yes No Don't know (4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain. Yes No Don't know
 Yes No Don't know *(5) Are there any water treatment systems for the property? If yes, are they Leased Owned Yes No Don't know
 Yes No Don't know *(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?
 Yes No Don't know (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed? Yes No Don't know
 Yes No Don't know *(b) If yes, has all or any portion of the water right not been used for five or more successive years? Yes No Don't know
 Yes No Don't know *(7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)? Don't know
- B. Irrigation Water**
 Yes No Don't know (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim? Don't know
 Yes No Don't know *(a) If yes, has all or any portion of the water right not been used for five or more successive years? Yes No Don't know
 Yes No Don't know *(b) If so, is the certificate available? (If yes, please attach a copy.) Yes No Don't know
 Yes No Don't know *(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? Yes No Don't know
 Yes No Don't know *(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property: Yes No Don't know
- C. Outdoor Sprinkler System**
 Yes No Don't know (1) Is there an outdoor sprinkler system for the property?
 Yes No Don't know *(2) If yes, are there any defects in the system?
 Yes No Don't know *(3) If yes, is the sprinkler system connected to irrigation water?
- 3. SEWER/ON-SITE SEWAGE SYSTEM**
A. The property is served by:
 Public sewer system,
 On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
 Other disposal system, please describe:
 Yes No Don't know
B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.
 Yes No Don't know
***C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?**
D. If the property is connected to an on-site sewage system:
 Yes No Don't know
 *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?
 (2) When was it last pumped?
 . . .
 Yes No Don't know
 *(3) Are there any defects in the operation of the on-site sewage system?
 Don't know
 (4) When was it last inspected?
 . . .
 By whom:
 Don't know
 (5) For how many bedrooms was the on-site sewage system approved?
 Yes No Don't know bedrooms
- E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:**
 Yes No Don't know
***F. Have there been any changes or repairs to the on-site sewage system?**
 Yes No Don't know
G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
 Yes No Don't know
***H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year?**

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

4. STRUCTURAL

- [] Yes [] No [] Don't know *A. Has the roof leaked within the last five years?
[] Yes [] No [] Don't know *B. Has the basement flooded or leaked?
[] Yes [] No [] Don't know *C. Have there been any conversions, additions, or remodeling?
[] Yes [] No [] Don't know *(1) If yes, were all building permits obtained?
[] Yes [] No [] Don't know *(2) If yes, were all final inspections obtained?
[] Yes [] No [] Don't know D. Do you know the age of the house? If yes, year of original construction:
[] Yes [] No [] Don't know *E. Has there been any settling, slippage, or sliding of the property or its improvements?
[] Yes [] No [] Don't know *F. Are there any defects with the following: (If yes, please check applicable items and explain.)
[] Yes [] No [] Don't know *G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed?
[] Yes [] No [] Don't know H. During your ownership, has the property had any wood destroying organism or pest infestation?
[] Yes [] No [] Don't know I. Is the attic insulated?
[] Yes [] No [] Don't know J. Is the basement insulated?

5. SYSTEMS AND FIXTURES

- [] Yes [] No [] Don't know *A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.
[] Yes [] No [] Don't know Electrical system, including wiring, switches, outlets, and service
[] Yes [] No [] Don't know Plumbing system, including pipes, faucets, fixtures, and toilets
[] Yes [] No [] Don't know Hot water tank
[] Yes [] No [] Don't know Garbage disposal
[] Yes [] No [] Don't know Appliances
[] Yes [] No [] Don't know Sump pump
[] Yes [] No [] Don't know Heating and cooling systems
[] Yes [] No [] Don't know Security system

[] Owned [] Leased
Other

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

- [] Yes [] No [] Don't know Security system
[] Yes [] No [] Don't know Tanks (type):
[] Yes [] No [] Don't know Satellite dish
Other:

*C. Are any of the following kinds of wood burning appliances present at the property?

- [] Yes [] No [] Don't know (1) Woodstove?
[] Yes [] No [] Don't know (2) Fireplace insert?
[] Yes [] No [] Don't know (3) Pellet stove?
[] Yes [] No [] Don't know (4) Fireplace?
If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

[] Yes [] No [] Don't know D. Is the property located within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services?

[] Yes [] No [] Don't know E. Is the property equipped with carbon monoxide alarms? (Note: Pursuant to RCW 19.27.530, seller must equip the residence with carbon monoxide alarms as required by the state building code.)

[] Yes [] No [] Don't know F. Is the property equipped with smoke ((alarms)) detection devices? (Note: Pursuant to RCW 43.44.110, if the property is not equipped with at least one smoke detection device, at least one must be provided by the seller.)

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

[] Yes [] No [] Don't know A. Is there a Homeowners' Association? Name of Association and contact information for an officer, director, employee, or other authorized agent, if any, who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available:

[] Yes [] No [] Don't know B. Are there regular periodic assessments:
\$. . . per [] Month [] Year
[] Other

[] Yes [] No [] Don't know *C. Are there any pending special assessments?

[] Yes [] No [] Don't know *D. Are there any shared "common areas" or any joint

maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

Yes No Don't know

7. ENVIRONMENTAL

*A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

Yes No Don't know

*B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know

*C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

Yes No Don't know

D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

Yes No Don't know

*E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

Yes No Don't know

*F. Has the property been used for commercial or industrial purposes?

Yes No Don't know

*G. Is there any soil or groundwater contamination?

Yes No Don't know

*H. Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

Yes No Don't know

*I. Has the property been used as a legal or illegal dumping site?

Yes No Don't know

*J. Has the property been used as an illegal drug manufacturing site?

Yes No Don't know

*K. Are there any radio towers in the area that cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

Yes No Don't know

*A. Did you make any alterations to the home? If yes, please describe the alterations:

Yes No Don't know

*B. Did any previous owner make any alterations to the home?

Yes No Don't know

*C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

Yes No Don't know

*Are there any other existing

material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER
NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY

WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE BUYER BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

NEW SECTION. Sec. 4. A new section is added to chapter 48.19 RCW to read as follows:

(1) In making rates for the insurance coverage for dwelling units, insurers shall consider the benefits of fire alarms and smoke detection devices in their rate making. If the insurer determines a separate rate factor is valid, then an exhibit supporting these changes and any credits or discounts resulting from any such changes must be included in the initial filing supporting such change. An insurer need not file any exhibits or offer any related discounts if:

(a) No changes are made to the credits or discounts already in effect prior to the effective date of this section;

(b) It determines that there is no material anticipated change in losses due to the use of such equipment; or

(c) Any potential credit or discount is not actuarially supported.

(2) The commissioner shall report to the appropriate committees of the legislature on any credits or discounts provided on insurance premiums for fire alarms and smoke detection devices installed in dwelling units. By December 31, 2020, and in compliance with RCW 43.01.036, the commissioner must submit a report to the appropriate committees of the legislature that details the use of discounts prior to and after the effective date of this section, and the type of fire alarm or smoke detection device qualifying for a credit or discount.

(3) For the purposes of this section:

(a) "Dwelling unit" means a residential dwelling of any type, including a single-family residence, apartment, condominium, or cooperative unit.

(b) "Smoke detection device" or "smoke detection devices" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation.

(c) "Fire alarm" or "fire alarms" means any mechanical, electrical or radio-controlled device that is designed to emit a sound or transmit a signal or message when activated or any such device that emits a sound and transmits a signal or message when activated because of smoke, heat or fire.

(4) This section applies to rate filings for coverage for dwelling units filed on or after January 1, 2020.

NEW SECTION. Sec. 5. This act shall be known and cited as the Greg "Gibby" Gibson home fire safety act.

NEW SECTION. Sec. 6. Section 3 of this act is effective for real estate transactions entered into on or after January 1, 2020.

NEW SECTION. Sec. 7. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284.

Senator Liias spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5284, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5284, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5324 with the following amendment(s): 5324-S AMH APP H2840.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.300.542 and 2016 c 157 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

specific purpose, the office of the superintendent of public instruction shall create a competitive grant process to evaluate and award state-funded grants to school districts to increase identification of ~~((homeless))~~ students experiencing homelessness and the capacity of the districts to provide support ~~((, which may include education liaisons, for homeless students))~~ for students experiencing homelessness. Funds may be used in a manner that is complementary to federal McKinney-Vento funds and consistent with allowable uses as determined by the office of the superintendent of public instruction. The process must complement any similar federal grant program or programs in order to minimize agency overhead and administrative costs for the superintendent of public instruction and school districts. School districts may access both federal and state funding to identify and support ~~((homeless))~~ students experiencing homelessness.

(2) Award criteria for the state grants must be based on the demonstrated need of the school district and may consider the number or overall percentage, or both, of homeless children and youths enrolled in preschool, elementary, and secondary schools in the school district, and the ability of the local school district to meet these needs. Award criteria for these must also be based on the quality of the applications submitted. ~~((Preference))~~ Selected grantees must reflect geographic diversity across the state. Greater weight must be given to districts that demonstrate a commitment to:

(a) Partnering with local housing and community-based organizations with experience in serving the needs of students experiencing homelessness or students of color;

(b) Serving the needs of unaccompanied youth; and

(c) Implementing evidence-informed strategies to address the opportunity gap and other systemic inequities that negatively impact students experiencing homelessness and students of color. Specific strategies may include, but are not limited to:

(i) Enhancing the cultural responsiveness of current and future staff;

(ii) Ensuring all staff, faculty, and school employees are actively trained in trauma-informed care;

(iii) Providing inclusive programming by intentionally seeking and utilizing input from the population being served;

(iv) Using a multidisciplinary approach when serving students experiencing homelessness and their families;

(v) Intentionally seeking and utilizing input from the families and students experiencing homelessness about how district policies, services, and practices can be improved; and

(vi) Identifying data elements and systems needed to monitor progress in eliminating disparities in academic outcomes for students experiencing homelessness with their housed peers.

(3) At the end of each academic year, districts receiving grants ~~((must measure during the academic year how often each student physically moves, what services families or unaccompanied youth could access, and whether or not a family or unaccompanied youth received stable housing by the end of the school year))~~ shall monitor and report on the academic outcomes for students served by the grants. The academic outcomes are those recommended by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall review the reports submitted by the districts and assist school districts in using these data to identify gaps and needs, and develop sustainable strategies to improve academic outcomes for students experiencing homelessness.

(4) ~~((Homeless))~~ Students experiencing homelessness are defined as students without a fixed, regular, and adequate nighttime residence ~~((as set forth))~~ in accordance with the definition of homeless children and youths in the federal

McKinney-Vento homeless ~~((education))~~ assistance act ~~((P.L. 100-77; 101 Stat. 482))~~, 42 U.S.C. Sec. 11431 through 11435.

(5) School districts may not use funds allocated under this section to supplant existing federal, state, or local resources for ~~((homeless student))~~ supports for students experiencing homelessness, which may include education liaisons.

(6) Grants awarded to districts under this section may be for two years.

Sec. 2. RCW 43.185C.340 and 2016 c 157 s 3 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department ~~((, in consultation with the office of the superintendent of public instruction,))~~ shall administer a grant program that links ~~((homeless))~~ students experiencing homelessness and their families with stable housing located in the ~~((homeless))~~ student's school district. The goals of the program ~~((is))~~ are to:

(a) Provide educational stability for ~~((homeless))~~ students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between housing and education partners.

(2) To ensure that innovative strategies between housing and education partners are developed and implemented, the department may contract and consult with a designated vendor to provide technical assistance and program evaluation, and assist with making grant awards. If the department contracts with a vendor, the vendor must be selected by the director and:

(a) Be a nonprofit vendor;

(b) Be located in Washington state; and

(c) Have a demonstrated record of working toward the housing and educational stability of students and families experiencing homelessness.

(3) In implementing the program, the department, or the department in partnership with its designated vendor, shall consult with the office of the superintendent of public instruction.

(4) The department, ~~((working with the office of the superintendent of public instruction))~~ or the designated vendor in consultation with the department, shall develop a competitive grant process to make grant awards ~~((of no more than one hundred thousand dollars per school, not to exceed five hundred thousand dollars per school district,))~~ ~~((to (school districts partnered with))~~ eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, regional support network established under chapter 71.24 RCW, behavioral health organization, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include ~~((contractual agreements))~~ a memorandum of understanding between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support ~~((homeless))~~ students experiencing homelessness. The memorandum must include:

(a) How housing providers will partner with school districts to address gaps and needs and develop sustainable strategies to help students experiencing homelessness; and

(b) How data on students experiencing homelessness and their families will be collected and shared in accordance with privacy protections under applicable federal and state laws.

~~((3))~~ ~~The grants awarded to school districts shall not exceed fifteen school districts per school year.~~ (5) In determining which ~~((partnerships))~~ eligible organizations will receive grants, ~~((preference must))~~ the department must ensure that selected grantees reflect geographic diversity across the state. Greater weight shall be given to ~~((districts with a demonstrated~~

~~commitment of partnership and history with~~) eligible organizations that demonstrate a commitment to:

- (a) Partnering with local schools or school districts; and
- (b) Developing and implementing evidence-informed strategies to address racial inequities. Specific strategies may include, but are not limited to:
 - (i) Hiring direct service staff who reflect the racial, cultural, and language demographics of the population being served;
 - (ii) Committing to inclusive programming by intentionally seeking and utilizing input from the population being served;
 - (iii) Ensuring eligibility criteria does not unintentionally screen out people of color and further racial inequity; and
 - (iv) Creating access points in locations frequented by parents, guardians, and unaccompanied homeless youth of color.

~~((4))~~ (6) Activities eligible for assistance under this grant program include but are not limited to:

- (a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;
- (b) Transportation assistance, including gasoline assistance for families with vehicles and bus passes;
- (c) Emergency shelter; ~~(and)~~
- (d) Housing stability case management; and
- (e) Other collaborative housing strategies, including prevention and strength-based safety and housing approaches.

~~((5))~~ (7)(a) All beneficiaries of funds from the grant program must be ~~((unaccompanied youth or))~~ from ~~((very low income))~~ households~~((For the purposes of this subsection, "very low income household" means an unaccompanied youth or family or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size, for the county where the grant recipient is located))~~ that include at least one student experiencing homelessness as defined as a child or youth without a fixed, regular, and adequate nighttime residence in accordance with the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(b) For the purposes of this section, "student experiencing homelessness" includes unaccompanied homeless youth not in the physical custody of a parent or guardian. "Unaccompanied homeless youth" includes students up to the age of twenty-one, in alignment with the qualifications for school admissions under RCW 28A.225.160(1).

~~((6))~~ (8)(a) Grantee ~~((school districts))~~ organizations must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, ~~((the academic performance of the grantee population,))~~ and any related policy recommendations.

(b) Grantees must track and report on the following measures including, but not limited to:

- (i) Length of time enrolled in the grant program;
- (ii) Housing destination at program exit;
- (iii) Type of residence prior to enrollment in the grant program; and
- (iv) Number of times homeless in the past three years.

(c) Grantees must also include in their reports a narrative description discussing its partnership with school districts as set forth in the memorandum outlined in subsection (4) of this section. Reports must also include the kinds of supports grantees are providing students and families to support academic learning.

(d) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

~~((7))~~ (9) In order to ensure that ~~((school districts))~~ housing

providers are meeting the requirements of ~~((an approved))~~ the grant program for ~~((homeless))~~ students experiencing homelessness, the ~~((office of the superintendent of public instruction))~~ department, or the department in partnership with its designee, shall monitor the program~~((s))~~ at least once every two years. ~~((Monitoring shall begin during the 2016-17 school year.~~

~~((8))~~ (10) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the ~~((office of the superintendent of public instruction))~~ department, or the department in partnership with its designee, shall monitor program components that include ~~((but need not be limited to))~~ the process used by the ~~((district))~~ eligible organization to identify and reach out to ~~((homeless))~~ students experiencing homelessness, ~~((assessment data))~~ and other indicators to determine how well the ~~((district))~~ eligible organization is meeting the ~~((academic))~~ housing needs of ~~((homeless))~~ students~~((district expenditures used to expand opportunities for these students, and the academic progress of students under))~~ experiencing homelessness. The department, or the department in partnership with its designee, shall provide technical assistance and support to housing providers to better implement the program.

Sec. 3. RCW 28A.320.142 and 2016 c 157 s 5 are each amended to read as follows:

(1) Each ~~((school district that has identified more than ten unaccompanied youth))~~ K-12 public school in the state must establish a building point of contact in each elementary school, middle school, and high school. These points of contact must be appointed by the principal of the designated school and are responsible for identifying homeless and unaccompanied homeless youth and connecting them with the school district's ~~((homeless student))~~ liaison for students experiencing homelessness. The school district homeless student liaison is responsible for training building points of contact.

(2) The office of the superintendent of public instruction shall make available best practices for choosing and training building points of contact to each school district.

NEW SECTION. Sec. 1. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5324.

Senator Frockt spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5324.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5324 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5324, as amended by the House.

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5324, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

SUBSTITUTE SENATE BILL NO. 5324, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5330 with the following amendment(s): 5330-S.E AMH APP H2848.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Small forestland owners own and manage approximately three million two hundred thousand acres of Washington's forestlands and exert a tremendous influence on public resources, including fish bearing streams, water quality, air, wildlife habitat, and carbon sequestration.

(2) Adoption of the forests and fish report was made possible, in part, by the agreement of small forestland owners who supported the intent of the law despite significant economic impacts to some members of the small forestland owner community. Twenty years after the adoption of the forests and fish report, it is time to evaluate how the increased regulations have impacted small forestland owners and their land.

(3) When the forests and fish report was adopted, the legislature enacted RCW 76.13.100 as follows:

"(1) The legislature finds that increasing regulatory requirements continue to diminish the economic viability of small forest landowners. The concerns set forth in RCW 77.85.180 about the importance of sustaining forestry as a viable land use are particularly applicable to small landowners because of the location of their holdings, the expected complexity of the regulatory requirements, and the need for significant technical expertise not readily available to small landowners. The further reduction in harvestable timber owned by small forest landowners as a result of the rules to be adopted under RCW 76.09.055 will further erode small landowners' economic viability and willingness or ability to keep the lands in forestry use and, therefore, reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, as defined in RCW 76.09.020.

(2) The legislature finds that the concerns identified in subsection (1) of this section should be addressed by establishing within the department of natural resources a small forest landowner office that shall be a resource and focal point for small forest landowner concerns and policies. The legislature further

finds that a forestry riparian easement program shall be established to acquire easements from small landowners along riparian and other areas of value to the state for protection of aquatic resources. The legislature further finds that small forest landowners should have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources. The small forest landowner office should be responsible for assisting small landowners in the development and implementation of these plans or restrictions."

(4) The twentieth anniversary of the adoption of the forests and fish report into law presents an optimal time to review how the state's regulatory actions, intended to benefit both landowners and habitat, have affected small forestland owners. How have programs intended to make up for the disproportionate economic impact been implemented? What can the legislature do to keep small forestland owners on the landscape, so their land will be available for salmon habitat and water quality rather than converted?

(5)(a) The school of environmental and forest sciences within the college of the environment at the University of Washington must complete a trends analysis.

(b) The trends analysis must address, at a minimum, the following questions:

(i) Have the number of small forestland owners increased or decreased?

(ii)(A) Has the acreage held by small forestland owners increased or decreased?

(B) Of the land no longer owned by small forestland owners, what percentage was converted to nonforest use, became industrial forestland, trust land, or some other use?

(c)(i) The school of environmental and forest sciences at the University of Washington, using the data from the trends analysis and other pertinent information, must:

(A) Determine which factors contributed to small forestland owners selling their land;

(B) Recommend actions the legislature can take to help keep forestland working; and

(C) Assess the effectiveness and implementation of the programs created in RCW 76.13.100(2) which described three programs to assist small forestland owners and mitigate the disproportionate economic impact. The assessment must include:

(I) Evaluating the effectiveness of the small forest landowner office: Does it have adequate resources and authority to successfully address landowner concerns? Has it received adequate funding to implement fully the duties as assigned through RCW 76.13.110?

(II) Forest riparian easement program: Does the structure of the program adequately address economic impact to small forestland owners? Has funding kept up with need? Has the lack of funding resulted in the loss of riparian habitat?

(III) Have meaningful alternate management plans or alternate harvest restrictions been developed for smaller harvest units?

(IV) Has the family forest fish passage program addressed economic impact to landowners and fish passage barriers adequately?

(ii) Would meaningful alternate harvest restrictions reduce the financial burden on the forest riparian easement program?

(iii) How can the legislature incentivize small forestland owners to maintain their land as forestland?

(iv) Could a program be developed to facilitate small forestland owner's participation in carbon markets?

(6) The University of Washington may reach out to a broad variety of stakeholders for input.

(7) The policy analysis must use the trends analysis, the

regulatory impact analysis, and other data to provide recommendations on ways the forest practices board and the legislature can provide more effective incentives to encourage continued management of nonindustrial forests for forestry uses, including traditional timber harvest uses, open space uses, or as part of developing carbon market schemes.

(8) The University of Washington must report the results of the trends analysis and policy analysis to the appropriate committees of the legislature and the forest practices board by November 1, 2020, with recommendations to improve mitigation measures for small forestland owners and improve retention of working forestland held by small forestland owners.

(9) This section expires December 31, 2020.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Braun moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5330.

Senator Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Braun that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5330.

The motion by Senator Braun carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5330 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5330, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5330, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5330, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE

SENATE BILL NO. 5356 with the following amendment(s):
5356-S2.E AMH RUDE OMLI 250

On page 2, line 24, after "(4)" strike "Members" and insert "Two members of the senate, one from each of the two major political parties, appointed by the president of the senate, and two members of the house of representatives, one from each of the two major political parties, appointed by the speaker of the house of representatives, who support the legislative intent of the commission shall serve as advisory members. The legislative advisory members are non-voting members and are not eligible to serve as a chair of the commission. All legislative advisory members shall serve for a two-year term and the position of any legislative advisory member shall be deemed vacated whenever such member ceases to be a member of the house from which the member was appointed.

(5)(a) Nonlegislative members"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 2, after line 26, insert the following:

"(b) Legislative members shall be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 44.04.120."

On page 2, line 28, after "business." insert "Legislative advisory members are not included in determining a quorum."

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson, C. moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5356.

Senator Wilson, C. spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson, C. that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5356.

The motion by Senator Wilson, C. carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5356 by voice vote.

MOTION

On motion of Senator Bailey, Senator Rivers was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5356, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5356, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Sheldon, Takko, Van De Wege, Walsh, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Schoesler,

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

Short, Wagoner, Warnick, Wilson, L. and Zeiger

Excused: Senators Ericksen, Rivers and Salomon

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5356, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5410 with the following amendment(s): 5410-S.E AMH ENGR H2604.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that advanced placement, international baccalaureate, and Cambridge international coursework prepares students for postsecondary success and provides opportunities for them to earn college credit or secure placement in advanced courses.

The legislature feels strongly that students who have earned minimum scores of three on advanced placement exams, four on standard-level and higher-level international baccalaureate exams, or scores of E(e) or higher on A and AS level Cambridge international exams deserve to receive undergraduate college credit, including elective credit and, where appropriate, course equivalent credit, for their work.

The legislature finds it necessary to develop a systemwide credit policy that allows those students to easily understand in advance whether institutions of higher education will award them credit, as well as which type of credit students will receive and the rationale for the institution of higher education's determination.

The legislature further encourages institutions of higher education to establish a policy favoring the award of course equivalent credit for the successful completion of standardized and commonly required courses.

Sec. 2. RCW 28B.10.054 and 2017 c 179 s 2 are each amended to read as follows:

(1) The institutions of higher education must establish a coordinated, evidence-based policy for granting as many undergraduate college credits, as possible and appropriate, to students who have earned minimum scores of three on ((AP)) advanced placement exams ((as possible and appropriate)), four on standard-level and higher-level international baccalaureate exams, or scores of E(e) or higher on A and AS level Cambridge international exams.

(2) Each institution of higher education must create a process for retroactively awarding international baccalaureate exam undergraduate college credits under the terms of this section to students who first enrolled in the institution of higher education in the 2018-19 academic year.

(3) Credit ((policy)) policies regarding all ((AP)) advanced placement and international baccalaureate exams must be posted on campus web sites effective for the ((2017)) 2019 fall academic term. Credit policies regarding all Cambridge international exams must be posted on campus web sites effective for the 2020 fall academic term. If an institution of higher education is unable to award a general education course equivalency, the student may request in writing an evidence-based reason as to why general

education course equivalency cannot be granted. Institutions of higher education must maintain web sites regarding their advanced placement, international baccalaureate, and Cambridge international policies in a publicly accessible way. The institutions of higher education must conduct biennial reviews of their ((AP)) advanced placement, international baccalaureate, and Cambridge international credit ((policy)) policies and report noncompliance to the appropriate committees of the legislature by November 1st each ((year)) biennium beginning November 1, 2019.

(4) The institutions of higher education must provide an update to the joint legislative audit and review committee on their credit awarding policies by December 31, 2019.

(5) For the purposes of this section, "general education course equivalency" means credit that fulfills general education or major requirements and is not awarded as elective credit.

NEW SECTION. Sec. 3. RCW 28B.10.051 (International baccalaureate and Cambridge international exams credit policies) and 2018 c 124 s 2 are each repealed."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Mullet moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5410.

Senator Mullet spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Mullet that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5410.

The motion by Senator Mullet carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5410 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5410, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5410, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5410, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5418 with the following amendment(s): 5418-S.E AMH ENGR H2648.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.23.352 and 2018 c 74 s 2 are each amended to read as follows:

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ~~((sixty-five thousand))~~ one hundred sixteen thousand one hundred fifty-five dollars if more than one craft or trade is involved with the public works, or ~~((forty thousand))~~ seventy-five thousand five hundred dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has

the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

(3) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

~~((3))~~ (4) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

~~((4))~~ (5) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

~~((5))~~ (6) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

~~((6))~~ (7) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

~~((7))~~ (8) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

~~((8))~~ (9) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

~~((9))~~ (10) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

~~((10))~~ (11) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

~~((11))~~ (12) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

~~((12))~~ (13)(a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or town must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(14) Any second-class city or town that awards a project to a bidder under the criteria described in subsection (2) of this section must make an annual report to the department of commerce that includes the total number of bids awarded to certified minority or women contractors and describing how notice was provided to potential certified minority or women contractors.

Sec. 2. RCW 39.19.020 and 1996 c 69 s 4 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(3) "Contractor" means an individual or entity granted state certification and awarded either a direct contract with an agency or an indirect contract as a subcontractor to perform a service or provide goods.

(4) "Director" means the director of the office of minority and women's business enterprises.

~~((4))~~ (5) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

~~((5))~~ (6) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

~~((6))~~ (7) "Goods and/or services" includes professional services and all other goods and services.

~~((7))~~ (8) "Office" means the office of minority and women's business enterprises.

~~((8))~~ (9) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

~~((9))~~ (10) "Procurement" means the purchase, lease, or rental of any goods or services.

~~((10))~~ (11) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

~~((11))~~ (12) "State agency" includes the state of Washington

and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

Sec. 3. RCW 39.19.060 and 1996 c 288 s 28 are each amended to read as follows:

(1) Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, ~~((39.29))~~ 39.26, 43.19, and 47.28 RCW.

(2) Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to ~~((insure))~~ ensure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses.

(3) The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter.

Sec. 4. RCW 39.19.250 and 2009 c 348 s 2 are each amended to read as follows:

(1) For the purpose of annual reporting on progress required by section 1 of this act, each state agency and educational institution shall submit data to the office and the office of minority and women's business enterprises on the participation by qualified minority and women-owned and controlled businesses in the agency's or institution's contracts and other related information requested by the director. The director of the office of minority and women's business enterprises shall determine the content and format of the data and the reporting schedule, which must be at least annually.

(2) The office must develop and maintain a list of contact people at each state agency and educational institution ~~((that is))~~ who are able to present to hearings of the appropriate committees of the legislature its progress in carrying out the purposes of chapter 39.19 RCW.

(3) The office must submit a report aggregating the data received from each state agency and educational institution to the legislature and the governor.

Sec. 5. RCW 39.04.155 and 2015 c 225 s 33 are each amended to read as follows:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred fifty thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters

shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.

(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of enterprise services in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of enterprise services under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from ~~((one))~~ two hundred fifty thousand dollars to three hundred fifty thousand dollars, a state agency or local government that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform

similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by ~~((telephone inquiry))~~ at least one of the following: Telephone or electronic request.

(f) For projects awarded under the small works roster process established under this subsection, a state agency or authorized local government may waive the retainage requirements of RCW 60.28.011(1)(a), thereby assuming the liability for contractor's nonpayment of: (i) Laborers, mechanics, subcontractors, materialpersons, and suppliers; and (ii) taxes, increases, and penalties under Titles 50, 51, and 82 RCW that may be due from the contractor for the project. However, the state agency or local government has the right of recovery against the contractor for any payments made on the contractor's behalf. Recovery of unpaid wages and benefits are the first priority for actions filed against the contract.

(3)(a) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement projects estimated to cost less than ~~((thirty-five))~~ fifty thousand dollars using the limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

(b) For limited public works projects, a state agency or authorized local government shall solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request. A state agency or authorized local government ~~((shall attempt to))~~ must equitably distribute opportunities for limited public works projects ~~((equitably))~~ among contractors willing to perform in the geographic area of the work. A state agency or authorized local government shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and may waive the retainage requirements of ~~((chapter 60.28))~~ RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes ~~((imposed under Title)),~~ increases, and penalties imposed under Titles 50, 51, and 82 RCW that may be due from the contractor for the limited public works project, however the state agency or authorized local government shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

(5)~~((a) A state agency or authorized local government may use the limited public works process of subsection (3) of this section~~

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

~~to solicit and award small works roster contracts to small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return.~~

~~(b) A state agency or authorized local government may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.~~

~~(6) As used in this section,)) A state agency or authorized local government may use the limited public works process in this section to solicit and award small works roster contracts to minibusinesses and microbusinesses as defined under RCW 39.26.010 that are registered contractors.~~

~~(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a) "Equitably distribute opportunities" means that a state agency or authorized local government may not favor certain contractors on the appropriate small works roster over other contractors on the same roster who perform similar services.~~

~~(b) "State agency" means the department of enterprise services, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of enterprise services to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.~~

Sec. 6. RCW 39.12.040 and 2013 c 113 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it is the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages must include:

(i) The contractor's registration certificate number; and
(ii) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

(b) Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate must state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it is the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an affidavit of wages paid before the funds retained according to the provisions of RCW 60.28.011 are released to the contractor. On a public works project where no retainage is withheld (~~pursuant to RCW 60.28.011(1)(b))~~), the affidavit of wages paid must be submitted to the state, county, municipality, or other public body charged with the duty of disbursing or authorizing disbursement of public funds prior to final acceptance of the public works project. If a subcontractor performing work

on a public works project fails to submit an affidavit of wages paid form, the contractor or subcontractor with whom the subcontractor had a contractual relationship for the project may file the forms on behalf of the nonresponsive subcontractor. Affidavit forms may only be filed on behalf of a nonresponsive subcontractor who has ceased operations or failed to file as required by this section. The contractor filing the affidavit must accept responsibility for payment of prevailing wages unpaid by the subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on behalf of a subcontractor subjects the filer to the same penalties as are provided in RCW 39.12.050. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less and for projects where the limited public works process under RCW 39.04.155(3) is followed:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency must retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency must require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.011. Within thirty days of receipt of the affidavit of wages paid, the awarding agency must submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid must be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in this subsection (2), the awarding agency must pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section may be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by subsection (1) of this section.

Sec. 7. RCW 54.04.070 and 2017 c 85 s 1 are each amended to read as follows:

(1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of (~~(fifteen))~~ thirty thousand dollars, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding (~~(seven))~~ twelve thousand (~~(five hundred))~~ dollars in any calendar month without a contract, purchasing any excess thereof over (~~(seven))~~ twelve thousand (~~(five hundred))~~ dollars by contract.

(2) Any work ordered by a district commission, the estimated

cost of which is in excess of ~~((twenty-five))~~ fifty thousand dollars, exclusive of sales tax, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding ~~((one))~~ three hundred ~~((fifty))~~ thousand dollars in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment ~~((purchased or acquired and used as one unit of a project))~~. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Before awarding a contract required under subsection (1) or (2) of this section, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may, at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

(4) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under RCW 39.04.155.

(5) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(6) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(7)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply

with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. ~~((Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued))~~ Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

Sec. 8. RCW 36.32.235 and 2016 c 95 s 8 and 2016 c 19 s 8 are each reenacted and amended to read as follows:

(1) In each county ~~((with a population of four hundred thousand or more))~~ which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section:

(a) "Public works" has the same definition as in RCW 39.04.010.

(b) "Riverine project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a river or stream and its tributaries and associated floodplains, beds, banks, and waters for the purpose of improving aquatic habitat, improving water quality, restoring floodplain function, or providing flood protection.

(c) "Stormwater project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a municipal separate storm sewer system, and any connections to the system, that is regulated under a state-issued national pollutant discharge elimination system general municipal stormwater permit for the purpose of improving control of stormwater runoff quantity and quality from developed land, safely conveying stormwater runoff, or reducing erosion or other water quality impacts caused by municipal separate storm sewer system discharges.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and, after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection ~~((40))~~ (11) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection ~~((42))~~ (13) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) A county may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(a) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the county, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(b) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the county having the option of extending or renewing the unit priced contract for one additional year.

(c) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the county will issue or release work assignments, work orders, or task authorizations pursuant to

a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. The contract must be awarded to the lowest responsible bidder as defined under RCW 39.04.010. Whenever possible, the county must invite at least one bid from a certified minority or woman contractor who otherwise qualifies under this section.

(d) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(10) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

~~((40))~~ (11) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of four hundred thousand or more shall not have public employees perform: A public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, a riverine project or stormwater project in excess of two hundred fifty thousand dollars if more than a single craft or trade is involved with the riverine project or stormwater project, a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project, or a riverine project or stormwater project in excess of one hundred twenty-five thousand dollars if only a single craft or trade is involved with the riverine project or stormwater project. A public works project, a riverine project, and a stormwater project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

~~((44))~~ (12) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

~~((42))~~ (13) Notwithstanding any other provision in this section, counties may use public employees without any

limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

~~((43))~~ (14) In lieu of the procedures of subsections (3) through ~~((41))~~ (12) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

~~((44))~~ (15) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

~~((45))~~ (16) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

~~((46))~~ (17) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

~~((47))~~ (18) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

NEW SECTION. Sec. 9. A new section is added to chapter 39.04 RCW to read as follows:

(1) The following public bodies of the state of Washington are authorized to procure public works contracts under this chapter for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades:

(a) Every county public transportation authority as defined under RCW 36.57.010;

(b) Every public transportation benefit area as defined under RCW 36.57A.010; and

(c) Every regional transit authority as defined under RCW 81.112.020.

(2) A public body may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(3) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the public body having the option of extending or renewing the unit priced contract for one additional year.

(4) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the public body will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as provided in RCW 39.04.010. Whenever possible, the public body must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(5) Unit priced contractors shall pay prevailing wages for all

work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(6) All public works procured with a unit priced contract under this section must comply with all other applicable bid requirements.

(7) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the public body, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

Sec. 10. RCW 57.08.050 and 2015 c 136 s 1 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of fifty thousand dollars, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of forty thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than fifty thousand dollars shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(6)(a) A district may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

Sec. 11. RCW 35.22.620 and 2018 c 74 s 1 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ~~((ninety))~~ one hundred fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of ~~((forty five thousand))~~ seventy-five thousand five hundred dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first-class city annually may prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

Each first-class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the

value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(11)(a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

Sec. 12. RCW 52.14.110 and 2009 c 229 s 9 are each amended to read as follows:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ~~((ten))~~ forty thousand dollars. However, whenever the estimated cost does not exceed ~~((fifty))~~ seventy-five thousand dollars, the commissioners may by resolution use the process provided in RCW 39.04.190 to award

contracts;

(2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of ~~((twenty))~~ thirty thousand dollars, which includes the costs of labor, material, and equipment;

(3) Contracts using the small works roster process under RCW 39.04.155; and

(4) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

Sec. 13. RCW 39.04.105 and 2003 c 300 s 1 are each amended to read as follows:

(1) Within two business days of the bid opening on a public works project that is the subject of competitive bids, the municipality must provide, if requested by a bidder, copies of the bids the municipality received for the project. The municipality shall then allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

(2) When a municipality receives a written protest from a bidder for a public works project (~~((which))~~) that is the subject of competitive bids, the municipality (~~((shall))~~) must not execute a contract for the project with anyone other than the protesting bidder without first providing at least two full business days' written notice of the municipality's intent to execute a contract for the project; provided that the protesting bidder submits notice in writing of its protest no later than:

(a) Two full business days following bid opening, if no bidder requested copies of the bids received for the project under subsection (1) of this section; or

(b) Two full business days following when the municipality provided copies of the bids to those bidders requesting bids under subsection (1) of this section. Intermediate Saturdays, Sundays, and legal holidays are not counted.

Sec. 14. RCW 54.04.082 and 2008 c 216 s 3 are each amended to read as follows:

For the awarding of a contract to purchase any item, or items of the same kind of materials, equipment, or supplies in an amount exceeding ~~((fifteen))~~ thirty thousand dollars per calendar month, but less than ~~((sixty))~~ one hundred twenty thousand dollars per calendar month, exclusive of sales tax, the commission may, in lieu of the procedure described in RCW 54.04.070 and 54.04.080 requiring public notice to invite sealed proposals for such materials, equipment, or supplies, pursuant to commission resolution use the process provided in RCW 39.04.190. Waiver of the deposit or bid bond required under RCW 54.04.080 may be authorized by the commission in securing such bid quotations.

Sec. 15. RCW 87.03.435 and 1997 c 354 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, ~~((and))~~ in any other newspaper which may be designated by the board, and on the irrigation district's web site or on the county's web site where the district is located if the district does not have a web site, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in

the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may contract using the small works roster process in RCW 39.04.155 or may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

NEW SECTION. **Sec. 16.** (1) The legislature finds that there are hundreds of local governments and special purpose districts and due to their existing authority and structure, partial legislative measures are introduced each year to amend the procurement thresholds for each individual entity. Therefore the legislature intends to require a comprehensive review of all local government bid limits for public works projects and purchases, including the small works roster and limited public works processes, rather than amend procurement rules and contract thresholds on a case-by-case basis.

(2) Subject to funds appropriated for this purpose, the capital projects advisory review board must review the public works contracting processes for local governments, including the small works roster and limited public works processes provided in RCW 39.04.155, and report to the governor and appropriate committees of the legislature by November 1, 2020. The report must include the following:

(a) Identification of the most common contracting procedures

used by local governments;

(b) Identification of the dollar amounts set for local government public works contracting processes;

(c) Analysis of whether the dollar amounts identified in (b) of this subsection comport with estimated project costs within the relevant industries;

(d) An analysis of the potential application of an inflation-based increaser, taking regional factors into consideration, to the dollar amounts identified in (b) of this subsection, for example:

(i) Applying the implicit price deflator for state and local government purchases of goods and services for the United States as published by the bureau of economic analysis of the federal department of commerce; and

(ii) Adjusting the bid limit dollar thresholds for inflation, on a regional basis, by the building cost index during that time period;

(e) Recommendations to increase uniformity and efficiency for local government public works contracting and procurement processes;

(f) Rates of participation of all contractor types, including qualified minority and women-owned and controlled businesses, in the small works roster and limited public works contracting processes; and

(g) Barriers to improving the participation rate in the small works roster and limited public works contracting processes.

(3) For purposes of this section:

(a) "Local governments" refers to all counties, cities, towns, other political subdivisions, and special purpose districts.

(b) "Building cost index" means the building cost index for Seattle, Washington, compiled by engineering news record, a nationally recognized professional construction trade periodical. The building cost index uses average skilled construction labor rates, structural steel, concrete, and lumber as the basis of measurement."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Takko moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5418.

Senator Takko spoke in favor of the motion.

Senator Short spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Takko that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5418.

The motion by Senator Takko carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5418 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5418, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5418, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer,

Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldafia, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Braun, Brown, Honeyford, Padden, Rivers, Schoesler and Short

Excused: Senators Ericksen and Salomon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5418, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5425 with the following amendment(s): 5425-S AMH APP H2815.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.54.450 and 2016 c 238 s 1 are each amended to read as follows:

(1) For the purposes of this section, "maternal mortality" or "maternal death" means a death of a woman while pregnant or within one year of ~~((delivering or following))~~ the end of a pregnancy, ~~((whether or not the woman's death is related to or aggravated by the pregnancy))~~ from any cause.

(2) A maternal mortality review panel is established to conduct comprehensive, multidisciplinary reviews of maternal deaths in Washington to identify factors associated with the deaths and make recommendations for system changes to improve health care services for women in this state. The members of the panel must be appointed by the secretary of the department of health, must include at least one tribal representative, must serve without compensation, and may include at the discretion of the department:

- (a) ~~((An obstetrician;~~
- ~~(b) A physician specializing in maternal fetal medicine;~~
- ~~(c) A neonatologist;~~
- ~~(d) A midwife with licensure in the state of Washington;))~~

Women's medical, nursing, and service providers;

- (b) Perinatal medical, nursing, and service providers;
- (c) Obstetric medical, nursing, and service providers;
- (d) Newborn or pediatric medical, nursing, and service providers;

- (e) Birthing hospital or licensed birth center representative;
- (f) Coroners, medical examiners, or pathologists;
- (g) Behavioral health and service providers;
- (h) State agency representatives;
- (i) Individuals or organizations that represent the populations most affected by pregnancy-related deaths or pregnancy-associated deaths and lack of access to maternal health care services;

(j) A representative from the department of health who works in the field of maternal and child health; and

~~((#))~~ (k) A department of health epidemiologist with experience analyzing perinatal data(;

- ~~(g) A pathologist; and~~
- ~~(h) A representative of the community mental health centers;))~~

(3) The maternal mortality review panel must conduct comprehensive, multidisciplinary reviews of maternal mortality in Washington. The panel may not call witnesses or take testimony from any individual involved in the investigation of a

maternal death or enforce any public health standard or criminal law or otherwise participate in any legal proceeding relating to a maternal death.

(4)(a) Information, documents, proceedings, records, and opinions created, collected, or maintained by the maternity mortality review panel or the department of health in support of the maternal mortality review panel are confidential and are not subject to public inspection or copying under chapter 42.56 RCW and are not subject to discovery or introduction into evidence in any civil or criminal action.

(b) Any person who was in attendance at a meeting of the maternal mortality review panel or who participated in the creation, collection, or maintenance of the panel's information, documents, proceedings, records, or opinions may not be permitted or required to testify in any civil or criminal action as to the content of such proceedings, or the panel's information, documents, records, or opinions. This subsection does not prevent a member of the panel from testifying in a civil or criminal action concerning facts which form the basis for the panel's proceedings of which the panel member had personal knowledge acquired independently of the panel or which is public information.

(c) Any person who, in substantial good faith, participates as a member of the maternal mortality review panel or provides information to further the purposes of the maternal mortality review panel may not be subject to an action for civil damages or other relief as a result of the activity or its consequences.

(d) All meetings, proceedings, and deliberations of the maternal mortality review panel may, at the discretion of the maternal mortality review panel, be confidential and may be conducted in executive session.

(e) The maternal mortality review panel and ~~((the secretary of))~~ the department of health may retain identifiable information regarding facilities where maternal deaths occur, or facilities from which ~~((the patient was transferred, occur))~~ a patient whose record is or will be examined by the maternal mortality review panel was transferred, and geographic information on each case ~~((solely))~~ for the purposes of ~~((trending and analysis over time))~~ determining trends, performing analysis over time, and for quality improvement efforts. All individually identifiable information must be removed before any case review by the panel.

(5) The department of health shall review department available data to identify maternal deaths. To aid in determining whether a maternal death was related to or aggravated by the pregnancy, ~~((and))~~ whether it was preventable, and to coordinate quality improvement efforts, the department of health has the authority to:

(a) Request and receive data for specific maternal deaths including, but not limited to, all medical records, autopsy reports, medical examiner reports, coroner reports, and social service records; and

(b) Request and receive data as described in (a) of this subsection from health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ the department of social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers.

(6) Upon request by the department of health, health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ the department of social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers must provide all medical records, autopsy reports,

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

medical examiner reports, coroner reports, social services records, information and records related to sexually transmitted diseases, and other data requested for specific maternal deaths as provided for in subsection (5) of this section to the department.

(7) By ~~((July 1, 2017))~~ October 1, 2019, and ~~((biennially))~~ every three years thereafter, the maternal mortality review panel must submit a report to the secretary of the department of health and the health care committees of the senate and house of representatives. The report must protect the confidentiality of all decedents and other participants involved in any incident. The report must be distributed to relevant stakeholder groups for performance improvement. Interim results may be shared ~~((at))~~ with the Washington state hospital association coordinated quality improvement program. The report must include the following:

(a) A description of the maternal deaths reviewed by the panel ~~((during the preceding twenty four months))~~, including statistics and causes of maternal deaths presented in the aggregate, but the report must not disclose any identifying information of patients, decedents, providers, and organizations involved; and

(b) Evidence-based system changes and possible legislation to improve maternal outcomes and reduce preventable maternal deaths in Washington.

(8) Upon the approval of the department of health and with a signed written data-sharing agreement, the department of health may release either data or findings with indirect identifiers, or both, to the centers for disease control and prevention, regional maternal mortality review efforts, local health jurisdictions of Washington state, or tribes at the discretion of the department.

(a) A written data-sharing agreement under this section must, at a minimum:

(i) Include a description of the proposed purpose of the request, the scientific justification for the proposal, the type of data needed, and the purpose for which the data will be used;

(ii) Include the methods to be used to protect the confidentiality and security of the data;

(iii) Prohibit redisclosure of any identifiers without express written permission from the department of health;

(iv) Prohibit the recipient of the data from attempting to determine the identity of persons or parties whose information is included in the data set or use the data in any manner that identifies individuals or their family members, or health care providers and facilities;

(v) State that ownership of data provided under this section remains with the department of health, and is not transferred to those authorized to receive and use the data under the agreement; and

(vi) Require the recipient of the data to include appropriate citations when the data is used in research reports or publications of research findings.

(b) The department of health may deny a request to share either data or findings, or both, that does not meet the requirements.

(c) For the purposes of this subsection:

(i) "Direct identifier" means a single data element that identifies an individual person.

(ii) "Indirect identifier" means a single data element that on its own might not identify an individual person, but when combined with other indirect identifiers is likely to identify an individual person.

(9) For the purposes of the maternal mortality review, hospitals and licensed birth centers must make a reasonable and good faith effort to report all deaths that occur during pregnancy or within forty-two days of the end of pregnancy to the local coroner or medical examiner:

(a) These deaths must be reported within thirty-six hours after

death.

(b) Local coroners or medical examiners to whom the death was reported must conduct a death investigation, with autopsy strongly recommended.

(c) Autopsies must follow the guidelines for performance of an autopsy published by the department of health.

(d) Reimbursement of these autopsies must be at one hundred percent to the counties for autopsy services.

Sec. 2. RCW 70.02.230 and 2018 c 201 s 8002 are each amended to read as follows:

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty

years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(~~(iii)~~) (iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(~~(iii)~~) (iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the authority, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

(s) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(t) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(u)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility or health care provider or is under an agreement pursuant to the federal health insurance portability and

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(u) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(v) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (u) of this subsection;

(w) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(x) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(y) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(z) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(aa)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or

research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(bb) To any person if the conditions in RCW 70.02.205 are met;

(cc) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

NEW SECTION. **Sec. 3.** 2016 c 238 s 4 (uncodified) is repealed.

Sec. 4. RCW 68.50.104 and 2001 c 82 s 2 are each amended to read as follows:

(1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.

(2)(a) Except as provided in ~~((e))~~ (b) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW 43.79.445, as follows:

~~((a))~~ (i) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;

~~((b))~~ (ii) Up to twenty-five percent of the salary of pathologists who are primarily engaged in performing autopsies and are ~~((c))~~ (A) county coroners or county medical examiners, or ~~((d))~~ (B) employees of a county coroner or county medical examiner; and

~~((e))~~ (iii) One hundred percent of the cost of autopsies conducted under RCW 70.54.450.

(b) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW 43.103.100 (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.

(3) Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5425.

Senator Cleveland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5425.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5425 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5425, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5425, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

SUBSTITUTE SENATE BILL NO. 5425, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5429 with the following amendment(s): 5429.E AMH HSEL H2495.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.40.510 and 2017 3rd sp.s. c 6 s 621 are each amended to read as follows:

(1) In order to receive funds under RCW 13.40.500 through 13.40.540, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals that establish community juvenile accountability programs within their communities. These proposals must be submitted to the department for certification.

(2) The proposals must:

(a) Demonstrate that the proposals were developed with the input of the local law and justice councils established under RCW 72.09.300;

(b) Describe how local community groups or members are involved in the implementation of the programs funded under RCW 13.40.500 through 13.40.540;

(c) Include a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in their community. Data approaches are not required to be replicated if the networks have information that addresses risks in the community for juvenile offenders.

(3) A local government receiving a grant under this section shall agree that any funds received must be used efficiently to encourage the use of community-based programs that reduce the reliance on secure confinement as the sole means of holding juvenile offenders accountable for their crimes. The local government shall also agree to account for the expenditure of all funds received under the grant and to submit to audits for compliance with the grant criteria developed under RCW 13.40.520.

(4) The department, in consultation with the Washington association of juvenile court administrators and the state law and justice advisory council, shall establish guidelines for programs that may be funded under RCW 13.40.500 through 13.40.540.

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

The guidelines must:

(a) Target referred and diverted ((and)) youth, as well as adjudicated juvenile offenders;

(b) Include assessment methods to determine services, programs, and intervention strategies most likely to change behaviors and norms of juvenile offenders;

(c) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(d) Promote good work ethic values and educational skills and competencies necessary for the juvenile offender to function effectively and positively in the community;

(e) Maximize the efficient delivery of treatment services aimed at reducing risk factors associated with the commission of juvenile offenses;

(f) Maximize the reintegration of the juvenile offender into the community upon release from confinement;

(g) Maximize the juvenile offender's opportunities to make full restitution to the victims and amends to the community;

(h) Support and encourage increased court discretion in imposing community-based intervention strategies;

(i) Be compatible with research that shows which prevention and early intervention strategies work with juvenile offenders;

(j) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;

(k) Include an evaluation component; and

(l) Recognize the diversity of local needs.

(5) The state law and justice advisory council may provide support and technical assistance to local governments for training and education regarding community-based prevention and intervention strategies.

(6) For purposes of this section and sections 2 and 3 of this act, "referred youth" means a youth who:

(a) Was contacted by a law enforcement officer and the law enforcement officer has probable cause to believe that he or she has committed a crime;

(b) Was referred to a program that allows youth to enter before being diverted or charged with a juvenile offense; and

(c) Would have been diverted or charged with a juvenile offense, if not for the program to which he or she was referred.

NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW to read as follows:

(1) The department shall provide, in compliance with RCW 43.01.036, an annual report on December 1st to the appropriate committees of the legislature that includes a county by county description of the youth served by the programs funded under RCW 13.40.500 through 13.40.540 including the number of youth in each of those counties who were eligible for programs based on being a referred youth as defined by RCW 13.40.510.

(2) This section expires July 1, 2021.

NEW SECTION. Sec. 3. (1) As of the effective date of this section, the block grant oversight committee must implement a stop loss policy when allocating funding under RCW 13.40.510. The stop loss policy must limit the loss in funding for any juvenile court from one year to the next. The block grant oversight committee must establish a minimum base level of funding for juvenile courts with lower numbers of at-risk youth ten years of age and over but under eighteen years of age. The department of children, youth, and families must report, in compliance with RCW 43.01.036, to the legislature by December 1, 2019, about how funding is used for referred youth and the impact of that use on overall use of funding.

(2) For purposes of this section, "block grant oversight

committee" means a committee established by the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts that provides block grant funding formula oversight with equal representation from the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee is cochaired by the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts, who have the ability to change members of the committee as needed to achieve its purpose."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5429.

Senator Nguyen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5429.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5429 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5429, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5429, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Salomon

ENGROSSED SENATE BILL NO. 5429, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5986, by Senators Braun, Keiser, Kuderer and Van De Wege

Establishing a tax on vapor and heated tobacco products to fund cancer research and support local public health.

MOTIONS

On motion of Senator Braun, Substitute Senate Bill No. 5986 was substituted for Senate Bill No. 5986 and the substitute bill was placed on the second reading and read the second time.

Senator Braun moved that the following striking amendment no. 767 by Senator Braun be adopted:

Strike everything after the enacting clause and insert the following:

Part I

Tax on Vapor Products

NEW SECTION. Sec. 101. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual price" means the total amount of consideration for which vapor products are sold, valued in money, whether received in money or otherwise, including: (a) Any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling; and (b) in the case of a taxpayer importing vapor products into the state, any expenses of the taxpayer or any person affiliated with the taxpayer that are necessary to complete the importation, such as delivery, freight, transportation, federal taxes, or handling of the product.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the Washington state liquor and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in selling or distributing vapor products in this state.

(5) "Distributor" mean any person:

(a) Engaged in the business of selling vapor products in this state who brings, or causes to be brought, into this state from outside the state any vapor products for sale;

(b) Who makes, manufactures, fabricates, or stores vapor products in this state for sale in this state;

(c) Engaged in the business of selling vapor products outside this state who ships or transports vapor products to retailers or consumers in this state; or

(d) Engaged in the business of selling vapor products in this state who handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(6) "Indian country" has the same meaning as provided in RCW 82.24.010.

(7) "Manufacturer" has the same meaning as provided in RCW 70.345.010.

(8) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's vapor products and includes employees and independent contractors.

(9) "Person" means: Any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, limited liability company, association, or society; the state and its departments and institutions; any political subdivision of the state of Washington; and any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Except as provided otherwise in this chapter, "person" does not include any person immune from state taxation, including the United States or its instrumentalities, and federally recognized

Indian tribes and enrolled tribal members, conducting business within Indian country.

(10) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, or train.

(11) "Retail outlet" has the same meaning as provided in RCW 70.345.010.

(12) "Retailer" has the same meaning as provided in RCW 70.345.010.

(13) "Sale" has the same meaning as provided in RCW 70.345.010.

(14)(a) "Taxable sales price" means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased vapor products, the actual price for which the taxpayer purchased the vapor products;

(ii) In the case of a taxpayer that purchases vapor products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those vapor products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those vapor products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iii) In the case of a taxpayer that sells vapor products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price, that other distributors sell similar vapor products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling vapor products directly to ultimate consumers, the actual price for which the taxpayer sells those vapor products to ultimate consumers;

(v) In the case of a taxpayer that has acquired vapor products under a sale as defined in RCW 70.345.010(16)(b), the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same vapor products or similar vapor products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(vi) In cases where section 102(2)(b) of this act applies, the value of the article used as defined in RCW 82.12.010; or

(vii) In any case where (a)(i) through (vi) of this subsection do not apply, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same vapor products or similar vapor products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(b) For purposes of (a)(i) and (ii) of this subsection only, "person" includes both persons as defined in this section and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(c) In any case where the taxable sales price is not indicative of a vapor product's true value at the time and place of the taxable event as provided in section 102(2)(a) of this act, "taxable sales price" means the true value of the vapor product as determined by the department. For purposes of this subsection, "true value" means market value based on sales at comparable locations in this state of the same or similar vapor product of like quality and character sold under comparable conditions of sale by comparable sellers to comparable purchasers.

(15) "Taxpayer" means a person liable for the tax imposed by this chapter.

(16) "Unaffiliated distributor" means a distributor that is not

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased vapor products.

(17) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased vapor products.

(18) "Vapor product" means any noncombustible product containing a solution that contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, any vapor cartridge or other container, or similar product or device.

(a) The term does not include:

(i) Any product approved by the United States food and drug administration for sale as a tobacco cessation product, medical device, or for other therapeutic purposes when such product is marketed and sold solely for such an approved purpose;

(ii) Any product that will become an ingredient or component in a vapor product manufactured by a distributor; or

(iii) Any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(b) For purposes of this subsection (18):

(i) "Cigarette" has the same meaning as provided in RCW 82.24.010; and

(ii) "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

NEW SECTION. Sec. 102. (1) There is levied and collected a tax upon the sale, use, consumption, handling, possession, or distribution of all vapor products in this state in an amount equal to ten cents per milliliter of solution and a proportionate tax at the like rate on all fractional parts of a milliliter thereof. The tax on vapor products must be imposed based on the volume of the solution as listed by the manufacturer.

(2)(a) The tax under this section must be collected at the time the distributor: (i) Brings, or causes to be brought, into this state from without the state vapor products for sale; (ii) makes, manufactures, fabricates, or stores vapor products in this state for sale in this state; (iii) ships or transports vapor products to retailers or consumers in this state; or (iv) handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(b) The tax imposed under this section must also be collected by the department from the consumer of vapor products where the tax imposed under this section was not paid by the distributor on such vapor products.

(3)(a) The moneys collected under this section must be deposited as follows:

(i) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(ii) Fifty percent into the foundational public health services account created in section 104 of this act.

(b) The funding provided under this subsection is intended to supplement and not supplant general fund investments in cancer research and foundational public health services.

NEW SECTION. Sec. 103. (1) A bundled transaction that includes a vapor product is subject to the tax imposed under this chapter on only the milliliters, or portion of milliliters, of vapor products included in the bundled transaction.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bundled transaction" means:

(i) The sale of two or more products where the products are

otherwise distinct and identifiable, are sold for one nonitemized price, and at least one product is a vapor product subject to the tax under this chapter; and

(ii) A vapor product provided free of charge with the required purchase of another product. A vapor product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the vapor product provided free of charge.

(b) "Distinct and identifiable products" does not include packaging such as containers, boxes, sacks, bags, and bottles, or materials such as wrapping, labels, tags, and instruction guides, that accompany the sale of the products and are incidental or immaterial to the sale thereof.

NEW SECTION. Sec. 104. (1) The foundational public health services account is created in the state treasury. Fifty percent of the revenues from the tax collected under section 102 of this act and fifty percent of the revenues from the tax collected on heated tobacco products under RCW 82.26.020 must be deposited into the account for the purpose of promoting governmental public health.

(2) To determine the funding for foundational public health services pursuant to subsection (1) of this section, the governmental public health system must work together to: (a) Arrive at a mutually acceptable allocation and distribution of funds from the account using the process established in chapter 14, Laws of 2019; and (b) determine the best accountability measures to ensure efficient and effective use of funds, emphasizing use of shared services where appropriate.

NEW SECTION. Sec. 105. It is the intent and purpose of this chapter to levy a tax on all vapor products sold, used, consumed, handled, possessed, or distributed within this state. It is the further intent and purpose of this chapter to impose the tax only once on all vapor products in this state. Nothing in this chapter may be construed to exempt any person taxable under any other law or under any other tax imposed under this title.

NEW SECTION. Sec. 106. The tax imposed by section 102 of this act does not apply with respect to any vapor products which under the Constitution and laws of the United States may not be made the subject of taxation by this state.

NEW SECTION. Sec. 107. (1) Every distributor must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of vapor products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of vapor products made.

(2) These records must show the names and addresses of purchasers, the inventory of all vapor products, and other pertinent papers and documents relating to the purchase, sale, or disposition of vapor products. All invoices and other records required by this section to be kept must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the vapor products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises are subject to revocation by the department, and any licenses

issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 108. Every person required to be licensed under chapter 70.345 RCW who sells vapor products to persons other than the ultimate consumer must render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. The person must preserve legible copies of all such invoices for five years from the date of sale.

NEW SECTION. Sec. 109. (1) Every retailer must procure itemized invoices of all vapor products purchased. The invoices must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the vapor products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation by the department, and any licenses issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 110. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 111. All of the provisions contained in chapter 82.32 RCW not inconsistent with the provisions of this chapter have full force and application with respect to taxes

imposed under the provisions of this chapter.

NEW SECTION. Sec. 112. The department must authorize, as duly authorized agents, enforcement officers of the board to enforce provisions of this chapter. These officers are not employees of the department.

NEW SECTION. Sec. 113. (1) The department may by rule establish the invoice detail required under section 107 of this act for a distributor and for those invoices required to be provided to retailers under section 109 of this act.

(2) If a retailer fails to keep invoices as required under section 109 of this act, the retailer is liable for the tax owed on any uninvoiced vapor products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest must be assessed in accordance with chapter 82.32 RCW.

NEW SECTION. Sec. 114. (1) No person may transport or cause to be transported in this state vapor products for sale other than: (a) A licensed distributor under chapter 70.345 RCW, or a manufacturer's representative authorized to sell or distribute vapor products in this state under chapter 70.345 RCW; (b) a licensed retailer under chapter 70.345 RCW; (c) a seller with a valid delivery sale license under chapter 70.345 RCW; or (d) a person who has given notice to the board in advance of the commencement of transportation.

(2) When transporting vapor products for sale, the person must have in his or her actual possession, or cause to have in the actual possession of those persons transporting such vapor products on his or her behalf, invoices or delivery tickets for the vapor products, which must show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the vapor products being transported.

(3) In any case where the department or the board, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting vapor products in violation of this section, the department, board, or peace officer is authorized to stop the vehicle and to inspect it for contraband vapor products.

(4) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 115. The board must compile and maintain a current record of the names of all distributors, retailers, and delivery sales licenses under chapter 70.345 RCW and the status of their license or licenses. The information must be updated on a monthly basis and published on the board's official internet web site. This information is not subject to the confidentiality provisions of RCW 82.32.330 and must be disclosed to manufacturers, distributors, retailers, and the general public upon request.

NEW SECTION. Sec. 116. (1) No person engaged in or conducting business as a distributor or retailer in this state may:

(a) Make, use, or present or exhibit to the department or the board any invoice for any of the vapor products taxed under this chapter that bears an untrue date or falsely states the nature or quantity of the goods invoiced; or

(b) Fail to produce on demand of the department or the board all invoices of all the vapor products taxed under this chapter within five years prior to such demand unless the person can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond the person's control.

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

(2)(a) No person, other than a licensed distributor, retailer or delivery sales licensee, or manufacturer's representative, may transport vapor products for sale in this state for which the taxes imposed under this chapter have not been paid unless:

(i) Notice of the transportation has been given as required under section 114 of this act;

(ii) The person transporting the vapor products actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported; and

(iii) The vapor products are consigned to or purchased by a person in this state who is licensed under chapter 70.345 RCW.

(b) A violation of this subsection (2) is a gross misdemeanor.

(3) Any person licensed under chapter 70.345 RCW as a distributor, and any person licensed under chapter 70.345 RCW as a retailer, may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection (3) is a misdemeanor.

(4) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

(5) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 117. (1) A retailer that obtains vapor products from an unlicensed distributor or any other person that is not licensed under chapter 70.345 RCW must be licensed both as a retailer and a distributor and is liable for the tax imposed under section 102 of this act with respect to the vapor products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For the purposes of this subsection, "person" includes both persons defined in this act and any person immune from state taxation, such as the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(2) Every distributor licensed under chapter 70.345 RCW may sell vapor products to retailers located in Washington only if the retailer has a current retailer's license under chapter 70.345 RCW.

NEW SECTION. Sec. 118. A manufacturer that has manufacturer's representatives who sell or distribute the manufacturer's vapor products in this state must provide the board a list of the names and addresses of all such representatives and must ensure that the list provided to the board is kept current. A manufacturer's representative is not authorized to distribute or sell vapor products in this state unless the manufacturer that hired the representative has a valid distributor's license under chapter 70.345 RCW and that manufacturer provides the board a current list of all of its manufacturer's representatives as required by this section. A manufacturer's representative must carry a copy of the distributor's license of the manufacturer that hired the representative at all times when selling or distributing the manufacturer's vapor products.

NEW SECTION. Sec. 119. (1) Any vapor products in the possession of a person selling vapor products in this state acting as a distributor or retailer and who is not licensed as required under chapter 70.345 RCW, or a person who is selling vapor products in violation of RCW 82.24.550(6), may be seized without a warrant by any agent of the department, agent of the board, or law enforcement officer of this state. Any vapor products seized under this subsection are deemed forfeited.

(2) Any vapor products in the possession of a person who is not

a licensed distributor, delivery seller, manufacturer's representative, or retailer and who transports vapor products for sale without having provided notice to the board required under section 114 of this act, or without invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported may be seized and are subject to forfeiture.

(3) All conveyances, including aircraft, vehicles, or vessels that are used, or intended for use to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of vapor products under subsection (2) of this section, may be seized and are subject to forfeiture except:

(a) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the vapor products transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner establishes to have been committed or omitted without his or her knowledge or consent; or

(c) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(4) Property subject to forfeiture under subsections (2) and (3) of this section may be seized by any agent of the department, the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, board, or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(5) This section may not be construed to require the seizure of vapor products if the department's agent, board's agent, or law enforcement officer reasonably believes that the vapor products are possessed for personal consumption by the person in possession of the vapor products.

(6) Any vapor products seized by a law enforcement officer must be turned over to the board as soon as practicable.

(7) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 120. (1) In all cases of seizure of any vapor products made subject to forfeiture under this chapter, the department or board must proceed as provided in RCW 82.24.135.

(2) When vapor products are forfeited under this chapter, the department or board may:

(a) Retain the property for official use or upon application by any law enforcement agency of this state, another state, or the District of Columbia, or of the United States for the exclusive use of enforcing this chapter or the laws of any other state or the District of Columbia or of the United States; or

(b) Sell the vapor products at public auction to the highest bidder after due advertisement. Before delivering any of the goods to the successful bidder, the department or board must require the purchaser to pay the proper amount of any tax due. The proceeds of the sale must be first applied to the payment of all proper expenses of any investigation leading to the seizure and

of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds and all money must be deposited in the general fund of the state. Proper expenses of investigation include costs incurred by any law enforcement agency or any federal, state, or local agency.

(3) The department or the board may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions of this chapter. When any property is returned under this section, the department or the board may return the property to the parties from whom they were seized if and when such parties have paid the proper amount of tax due under this chapter.

NEW SECTION. Sec. 121. When the department or the board has good reason to believe that any of the vapor products taxed under this chapter are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter, it may make affidavit of facts describing the place or thing to be searched, before any judge of any court in this state, and the judge must issue a search warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department or the board commanding him or her diligently to search any building, room in a building, place, or vehicle as may be designated in the affidavit and search warrant, and to seize the vapor products and hold them until disposed of by law.

NEW SECTION. Sec. 122. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 123. (1) Preexisting inventories of vapor products are subject to the tax imposed in section 102 of this act. All retailers and other distributors must report the tax due under section 102 of this act on preexisting inventories of vapor products on a form, as prescribed by the department, on or before October 31, 2019, and the tax due on such preexisting inventories must be paid on or before January 31, 2020.

(2) Reports under subsection (1) of this section not filed with the department by October 31, 2019, are subject to a late filing

penalty equal to the greater of two hundred fifty dollars or ten percent of the tax due under section 102 of this act on the taxpayer's preexisting inventories.

(3) The department must notify the taxpayer of the amount of tax due under section 102 of this act on preexisting inventories, which is subject to applicable penalties under RCW 82.32.090 (2) through (7) if unpaid after January 31, 2020. Amounts due in accordance with this section are not considered to be substantially underpaid for the purposes of RCW 82.32.090(2).

(4) Interest, at the rate provided in RCW 82.32.050(2), must be computed daily beginning February 1, 2020, on any remaining tax due under section 102 of this act on preexisting inventories until paid.

(5) A retailer required to comply with subsection (1) of this section is not required to obtain a distributor license as otherwise required under chapter 70.345 RCW as long as the retailer:

(a) Does not sell vapor products other than to ultimate consumers; and

(b) Does not meet the definition of "distributor" in section 101 of this act other than with respect to the sale of that retailer's preexisting inventory of vapor products.

(6) Taxes may not be collected under section 102 of this act from consumers with respect to any vapor products acquired before the effective date of this section.

(7) For purposes of this section, "preexisting inventory" means an inventory of vapor products located in this state as of the moment that section 102 of this act takes effect and held by a distributor for sale, handling, or distribution in this state.

Part II

Conforming Amendments

Sec. 201. RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each amended to read as follows:

(1) The liquor and cannabis board may issue subpoenas in connection with any investigation, hearing, or proceeding for the production of books, records, and documents held under this chapter or chapters 70.155, 70.158, 70.345, 82.24, ~~((and)) 82.26 ((RCW)), and 82.---~~ RCW (the new chapter created in section 506 of this act), and books and records of common carriers as defined in RCW 81.80.010, or vehicle rental agencies relating to the transportation or possession of cigarettes, vapor products, or other tobacco products.

(2) The liquor and cannabis board may designate individuals authorized to sign subpoenas.

(3) If any person is served a subpoena from the board for the production of records, documents, and books, and fails or refuses to obey the subpoena for the production of records, documents, and books when required to do so, the person is subject to proceedings for contempt, and the board may institute contempt of court proceedings in the superior court of Thurston county or in the county in which the person resides.

Sec. 202. RCW 66.44.010 and 1998 c 18 s 1 are each amended to read as follows:

(1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor (~~shall~~) belong to the county, city or town wherein the court imposing the fine is located, and (~~shall~~) must be placed in the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor(=

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

~~PROVIDED, That~~). However, all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law ~~(shall)~~ must be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board ~~(shall have)~~ has the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

(3) In addition to the other duties under this section, the board ~~(shall)~~ must enforce chapters 82.24 ~~(and)~~, 82.26 ~~(RCW)~~, and 82.--- RCW (the new chapter created in section 506 of this act).

(4) The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers ~~(shall)~~ have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They ~~(shall)~~ have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 ~~(and)~~, 82.26 ~~(RCW)~~, and 82.--- RCW (the new chapter created in section 506 of this act). They ~~(shall)~~ have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 ~~(and)~~, 82.26 ~~(RCW)~~, and 82.--- RCW (the new chapter created in section 506 of this act).

Sec. 203. RCW 82.24.510 and 2013 c 144 s 50 are each amended to read as follows:

(1) The licenses issuable under this chapter are as follows:

- (a) A wholesaler's license.
- (b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board must adopt rules regarding the regulation of the licenses. The board may refrain from the issuance of any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a wholesaler's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, grant or refuse the wholesaler's license or retailer's license, subject to the provisions of RCW 82.24.550.

(3) No person may qualify for a wholesaler's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. A person who possesses a valid license on July 22, 2001, is subject

to this subsection and subsection (2) of this section beginning on the date of the person's business license expiration under chapter 19.02 RCW, and thereafter. If the applicant or licensee also has a license issued under chapter 66.24 ~~(or)~~, 82.26, or 70.345 RCW, the background check done under the authority of chapter 66.24 ~~(or)~~, 82.26, or 70.345 RCW satisfies the requirements of this section.

(4) Each such license expires on the business license expiration date, and each such license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board made pursuant thereto.

(5) Each license and any other evidence of the license that the board requires must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 204. RCW 82.24.550 and 2015 c 86 s 307 are each amended to read as follows:

(1) The board must enforce the provisions of this chapter. The board may adopt, amend, and repeal rules necessary to enforce the provisions of this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer the provisions of this chapter. The board may revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or any rule adopted under this chapter, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or further offense, must suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.26 or 70.345 RCW to a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year from the date of revocation of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under this chapter.

(6) A person whose license has been suspended or revoked may not sell cigarettes, vapor products, or tobacco products or permit cigarettes, vapor products, or tobacco products to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or

renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

(9) For purposes of this section((~~g~~)):

(a) "Tobacco products" has the same meaning as provided in RCW 82.26.010; and

(b) "Vapor products" has the same meaning as provided in section 101 of this act.

Sec. 205. RCW 82.26.060 and 2009 c 154 s 3 are each amended to read as follows:

(1) Every distributor (~~(shall)~~) must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made.

(2) These records (~~(shall)~~) must show the names and addresses of purchasers, the inventory of all tobacco products, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products. All invoices and other records required by this section to be kept (~~(shall)~~) must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the tobacco products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises (~~(shall be)~~) is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation, by the department or board.

Sec. 206. RCW 82.26.080 and 2005 c 180 s 5 are each amended to read as follows:

(1) Every retailer (~~(shall)~~) must procure itemized invoices of all tobacco products purchased. The invoices (~~(shall)~~) must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer (~~(shall)~~) must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section (~~(shall)~~) must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the tobacco products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation by the department.

Sec. 207. RCW 82.26.150 and 2013 c 144 s 52 are each amended to read as follows:

(1) The licenses issuable by the board under this chapter are as follows:

- (a) A distributor's license; and
- (b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board may adopt rules regarding the regulation of the licenses. The board may refuse to issue any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a distributor's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, issue or refuse to issue the distributor's license or retailer's license, subject to the provisions of RCW 82.26.220.

(3) No person may qualify for a distributor's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. If the applicant or licensee also has a license issued under chapter 66.24 (~~(or)~~) 82.24, or 70.345 RCW, the background check done under the authority of chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of this section.

(4) Each license issued under this chapter expires on the business license expiration date. The license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board adopted pursuant to this chapter.

(5) Each license and any other evidence of the license required under this chapter must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 208. RCW 82.26.220 and 2015 c 86 s 308 are each amended to read as follows:

(1) The board must enforce this chapter. The board may adopt, amend, and repeal rules necessary to enforce this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer this chapter. The board may revoke or suspend the distributor's or retailer's license of any distributor or retailer of tobacco products in the state upon sufficient cause showing a violation of this chapter or upon the failure of the licensee to comply with any of the rules adopted under it.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or of any rule adopted under it, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and in the case of a second or further offense, suspend the license or licenses for a period of not less than ninety consecutive business days but not more than twelve months, and in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.24 or 70.345 RCW to

a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under it.

(6) A person whose license has been suspended or revoked may not sell tobacco products, vapor products, or cigarettes or permit tobacco products, vapor products, or cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

Sec. 209. RCW 82.32.300 and 1997 c 420 s 9 are each amended to read as follows:

(1) The administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department (~~(of revenue which shall)~~), which must prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

(2) The department (~~(of revenue shall)~~) must make and publish rules and regulations, not inconsistent therewith, necessary to enforce provisions of this chapter and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor (~~(control)~~) and cannabis board (shall) must make and publish rules necessary to enforce chapters 82.24 (~~(and)~~), 82.26 (~~(RCW)~~), and 82.--- RCW (the new chapter created in section 506 of this act), which (~~(shall have)~~) has the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

(3) The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees (~~(shall)~~) must be fixed by the department and (~~(shall be)~~) charged to the proper appropriation for the department.

(4) The department (~~(shall)~~) must exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper.

Sec. 210. RCW 70.345.010 and 2016 sp.s. c 38 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the Washington state liquor and cannabis board.

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in

RCW 70.140.020.

(4) "Closed system nicotine container" means a sealed, prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" (~~(means any person who:~~

~~(a) Sells vapor products to persons other than ultimate consumers; or~~

~~(b) Is engaged in the business of selling vapor products in this state and who brings, or causes to be brought, into this state from outside of the state any vapor products for sale)) has the same meaning as in section 101 of this act.~~

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

(10) "Minor" refers to an individual who is less than eighteen years old.

(11) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(12) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

(13) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(14) "Retail outlet" means each place of business from which vapor products are sold to consumers.

(15) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

(16)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(17) "School" has the same meaning as provided in RCW

70.140.020.

(18) "Self-service display" means a display that contains vapor products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

(19) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection (19), "marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

Sec. 211. RCW 70.345.030 and 2016 sp.s. c 38 s 6 are each amended to read as follows:

(1)(a) No person may engage in or conduct business as a retailer, distributor, or delivery seller in this state without a valid license issued under this chapter, except as otherwise provided by law. Any person who sells vapor products to ultimate consumers by a means other than delivery sales must obtain a retailer's license under this chapter. Any person who ~~((sells vapor products to persons other than ultimate consumers or who))~~ meets the definition of distributor under this chapter must obtain a distributor's license under this chapter. Any person who conducts delivery sales of vapor products must obtain a delivery sale license.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW.

(2) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may refuse to allow the enforcement officers of the board, on demand, to make full inspection of any place of business or vehicle where any of the vapor products regulated under this chapter are sold, stored, transported, or handled, or otherwise hinder or prevent such inspection. A person who violates this subsection is guilty of a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, any person licensed under this chapter as a retailer, and any person licensed under this chapter as a delivery seller may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection is a misdemeanor.

(4) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may sell or give, or permit to sell or give, a product that contains any amount of any cannabinoid, synthetic cannabinoid, cathinone, or methcathinone, unless otherwise provided by law. A violation of this subsection (4) is punishable according to RCW 69.50.401.

(5) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

Sec. 212. RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each

amended to read as follows:

(1) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person unless such seller has a valid delivery sale license as required under this chapter.

(2) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person under the minimum age required for the legal sale of vapor products as provided under RCW 70.345.140.

(3) A delivery sale licensee must provide notice on its mail order or internet sales forms of the minimum age required for the legal sale of vapor products in Washington state as provided by RCW 70.345.140.

(4) A delivery sale licensee must not accept a purchase or order from any person without first obtaining the full name, birth date, and residential address of that person and verifying this information through an independently operated third-party database or aggregate of databases, which includes data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication.

(5) A delivery sale licensee must accept payment only through a credit or debit card issued in the purchaser's own name. The licensee must verify that the card is issued to the same person identified through identity and age verification procedures in subsection (4) of this section.

(6) Before a delivery sale licensee delivers an initial purchase to any person, the licensee must verify the identity and delivery address of the purchaser by mailing or shipping to the purchaser a notice of sale and certification form confirming that the addressee is in fact the person placing the order. The purchaser must return the signed certification form to the licensee before the initial shipment of product. Certification forms are not required for repeat customers. In the alternative, before a seller delivers an initial purchase to any person, the seller must first obtain from the prospective customer an electronic certification, such as by email, that includes a declaration that, at a minimum, the prospective customer is over the minimum age required for the legal sale of a vapor product, and the credit or debit card used for payment has been issued in the purchaser's name.

(7) A delivery sale licensee must include on shipping documents a clear and conspicuous statement which includes, at a minimum, that the package contains vapor products, Washington law prohibits sales to those under the minimum age established by this chapter, and violations may result in sanctions to both the licensee and the purchaser.

~~(8)~~ (8) For purposes of this subsection (8), "vapor products" has the same meaning as provided in section 101 of this act.

~~(9)~~ (9) A person who knowingly violates this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

~~((9))~~ (10) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court.

~~((10))~~ (11) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of this section and to compel compliance with this section.

~~((11))~~ (12) Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of this section lies solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

~~((42))~~ (13)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

~~((43))~~ (14) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

~~((44))~~ (15) A licensee who violates this section is subject to license suspension or revocation by the board.

~~((45))~~ (16) The board may adopt by rule additional requirements for mail or internet sales.

~~((46))~~ (17) The board must not adopt rules prohibiting internet sales.

Part III

Heated Tobacco Products

Sec. 301. RCW 82.24.010 and 2012 2nd sp.s. c 4 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the state liquor (~~control~~) and cannabis board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. "Cigarette" includes a roll-your-own cigarette, but does not include a heated tobacco product as defined in RCW 82.26.010.

(3) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(4) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(5) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(6) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

(7) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

(8) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(9) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

(10) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(11) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(12) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

(13) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter.

Sec. 302. RCW 82.26.010 and 2010 1st sp.s. c 22 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual price" means the total amount of consideration for which tobacco products are sold, valued in money, whether received in money or otherwise, including any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the state liquor (~~control~~) and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(5) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

(6) "Cigarette" has the same meaning as in RCW 82.24.010.

(7) "Department" means the department of revenue.

(8) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, (d) any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(9) "Heated tobacco product" means a product containing tobacco that produces an inhalable aerosol by:

(a) Heating the tobacco by means of an electronic device without combustion of the tobacco; or

(b) Heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

(10) "Indian country" means the same as defined in chapter 82.24 RCW.

~~((40))~~ (11) "Little cigar" means a cigar that has a cellulose acetate integrated filter.

~~((44))~~ (12) "Manufacturer" means a person who manufactures and sells tobacco products.

~~((42))~~ (13) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's tobacco products, and includes employees and independent contractors.

~~((43))~~ (14) "Moist snuff" means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity.

~~((14))~~ (15) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

~~((15))~~ (16) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, train, or vending machine.

~~((16))~~ (17) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

~~((17))~~ (18) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

~~((18))~~ (19)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling tobacco products, for advertising, promoting, or as a means of evading the provisions of this chapter.

~~((19))~~ (20)(a) "Taxable sales price" means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased tobacco products, the actual price for which the taxpayer purchased the tobacco products;

(ii) In the case of a taxpayer that purchases tobacco products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iii) In the case of a taxpayer that sells tobacco products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price, that other distributors sell similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling tobacco products directly to ultimate consumers, the actual price for which the taxpayer sells those tobacco products to ultimate consumers;

(v) In the case of a taxpayer that has acquired tobacco products under a sale as defined in subsection ~~((18))~~ (19)(b) of this section, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers; or

(vi) In any case where (a)(i) through (v) of this subsection do not apply, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(b) For purposes of (a)(i) and (ii) of this subsection only, "person" includes both persons as defined in subsection ~~((14))~~ (15) of this section and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting

business within Indian country.

(c) The department may adopt rules regarding the determination of taxable sales price under this subsection.

~~((20))~~ (21) "Taxpayer" means a person liable for the tax imposed by this chapter.

~~((21))~~ (22) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, including heated tobacco products as defined in subsection (9) of this section, but does not include cigarettes as defined in RCW 82.24.010.

~~((22))~~ (23) "Unaffiliated distributor" means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

~~((23))~~ (24) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products.

Sec. 303. RCW 82.26.020 and 2010 1st sp.s. c 22 s 5 are each amended to read as follows:

(1) There is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rate:

(a) For cigars except little cigars, ninety-five percent of the taxable sales price of cigars, not to exceed sixty-five cents per cigar;

(b) For all tobacco products except those covered under separate provisions of this subsection, ninety-five percent of the taxable sales price;

(c) For moist snuff, as established in this subsection (1)(c) and computed on the net weight listed by the manufacturer:

(i) On each single unit consumer-sized can or package whose net weight is one and two-tenths ounces or less, a rate per single unit that is equal to the greater of 2.526 dollars or eighty-three and one-half percent of the cigarette tax under chapter 82.24 RCW multiplied by twenty; or

(ii) On each single unit consumer-sized can or package whose net weight is more than one and two-tenths ounces, a proportionate tax at the rate established in (c)(i) of this subsection (1) on each ounce or fractional part of an ounce; ~~((and))~~

(d) For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW; and

(e) For heated tobacco products, sixty cents per ounce of tobacco, plus a proportionate tax at the like rate on any fractional parts of an ounce. The tax on heated tobacco products is imposed based on the net weight of tobacco as listed by the manufacturer.

(2) The tax imposed on a product under this chapter must be reduced by fifty percent if that same product is issued a modified risk tobacco product order by the secretary of the United States department of health and human services pursuant to Title 21 U.S.C. Sec. 387k(g)(1).

(3) Taxes under this section must be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

~~((3) The moneys collected under this section must be deposited into the state general fund.)) (4)(a) Except as provided in (b) of this subsection, the moneys collected under this section must be deposited into the state general fund.~~

(b) The moneys collected on heated tobacco products under subsection (1)(e) of this section must be deposited as follows:

(i) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(ii) Fifty percent into the foundational public health services account created in section 104 of this act.

(c) The funding provided under (b) of this subsection is intended to supplement and not supplant general fund investments in cancer research and foundational public health services.

Part IV Tribal Compacting

Sec. 401. RCW 43.06.450 and 2001 c 235 s 1 are each amended to read as follows:

The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes and vapor products. The legislature finds that these cigarette tax and vapor product tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax ~~((law))~~ and vapor product tax, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts ~~((shall))~~ have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 ~~((does))~~ and this act do not constitute a grant of taxing authority to any Indian tribe nor ~~((does it)) do they provide precedent for the taxation of non-Indians on fee land.~~

NEW SECTION. Sec. 402. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into vapor product tax contracts concerning the sale of vapor products. All vapor product tax contracts must meet the requirements for vapor product tax contracts under this section.

(2) Vapor product tax contracts must be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts must provide that retailers may not sell or give, or permit to be sold or given, vapor products to any person who is under the state legal age for the purchase of vapor products.

(3) A vapor product tax contract with a tribe must provide for a tribal vapor product tax in lieu of all state vapor product taxes and state and local sales and use taxes on sales of vapor products in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Vapor product tax contracts must provide that retailers must purchase vapor products only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the vapor product tax contract, are certified to the state as having so agreed, and do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and
(d) A tribal manufacturer.

(5) Vapor product tax contracts must be for renewable periods of no more than eight years.

(6) Vapor product tax contracts must include provisions for compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of vapor products and food retailers is prohibited.

(8) The vapor product tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate vapor product tax contracts to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations.

(10) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 506 of this act) and therefore the liquor and cannabis board is responsible for enforcement activities that come under the terms of chapter 82.--- RCW (the new chapter created in section 506 of this act).

(12) Each vapor product tax contract must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract must provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract must include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(13) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.

(b) "Indian country" has the same meaning as provided in RCW 82.24.010.

(c) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe;

(ii) A business wholly owned and operated by a tribal member and licensed by the tribe; or

(iii) A business owned and operated by the Indian person or persons in whose name the land is held in trust.

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(e) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. Sec. 403. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor is authorized to enter into vapor product tax contracts with federally recognized Indian tribes located within the geographical boundaries of the state of Washington. Each

contract adopted under this section must provide that the tribal vapor product tax rate be one hundred percent of the state vapor product tax and state and local sales and use taxes. The tribal vapor product tax is in lieu of the state vapor product tax and state and local sales and use taxes, as provided in section 402(3) of this act.

(2) A vapor product tax contract under this section is subject to section 402 of this act.

NEW SECTION. Sec. 404. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into a vapor product tax agreement with the Puyallup Tribe of Indians concerning the sale of vapor products, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. The governor may delegate the authority to negotiate a vapor product tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations.

(2) Any agreement must require the tribe to impose a tribal vapor product tax with a tax rate that is ninety percent of the state vapor product tax. This tribal tax is in lieu of the combined state and local sales and use taxes and the state vapor product tax, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal vapor product tax must increase or decrease at the time of any increase or decrease in the state vapor product tax so as to remain at a level that is ninety percent of the rate of the state vapor product tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all vapor products sales to the state. The funds must be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in section 402 of this act.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements must provide that retailers may not sell or give, or permit to be sold or given, vapor products to any person who is under the state legal age for the purchase of vapor products.

(5)(a) The agreement must include a provision to price and sell the vapor products so that the retail selling price is not less than the price paid by the retailer for the vapor products.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax.

(d) If the tribe is acting as a distributor to tribal retailers, the retail selling price must not be less than the price the tribe paid for such vapor products plus the tribal tax.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell vapor products and must describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of

information among the tribe, the department of revenue, and the liquor and cannabis board.

(7) The agreement must provide that retailers must purchase vapor products only from distributors or manufacturers licensed to do business in the state of Washington.

(8) The agreement must be for a renewable period of no more than eight years.

(9) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and must include a dispute resolution protocol. The protocol must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(10) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 506 of this act).

(12) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Indian country" has the same meaning as provided in RCW 82.24.010.

(b) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe; or

(ii) A business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(d) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. Sec. 405. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of vapor products by an Indian retailer during the effective period of a vapor product tax contract subject to section 403 of this act or a vapor product tax agreement under section 404 of this act.

(2) The definitions in section 402 of this act apply to this section.

NEW SECTION. Sec. 406. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of vapor products sold by an Indian retailer during the effective period of a vapor product tax contract subject to section 403 of this act or a vapor product tax agreement under section 404 of this act.

(2) The definitions in section 402 of this act apply to this section.

Part V Miscellaneous Provisions

NEW SECTION. Sec. 501. A new section is added to chapter 82.32 RCW to read as follows:

(1) By October 15, 2020, and by each October 15th thereafter, the department must estimate any increase in state general fund revenue collections for the immediately preceding fiscal year resulting from the taxes imposed in chapter . . . , Laws of 2019

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

(this act). The department must promptly notify the state treasurer of these estimated amounts.

(2) Beginning November 1, 2020, and by each November 1st thereafter, the state treasurer must transfer from the general fund the estimated amount determined by the department under subsection (1) of this section for the immediately preceding fiscal year as follows:

(a) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(b) Fifty percent into the foundational public health services account created in section 104 of this act.

(3) The department may not make any adjustments to an estimate under subsection (1) of this section after the state treasurer makes the corresponding distribution under subsection (2) of this section based on the department's estimate.

NEW SECTION. Sec. 502. RCW 43.348.900 (Expiration of chapter) and 2015 3rd sp.s. c 34 s 10 are each repealed.

NEW SECTION. Sec. 503. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 504. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 505. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 506. Part I of this act constitutes a new chapter in Title 82 RCW.

NEW SECTION. Sec. 507. This act takes effect October 1, 2019."

On page 1, line 2 of the title, after "health;" strike the remainder of the title and insert "amending RCW 66.08.145, 66.44.010, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, 70.345.010, 70.345.030, 70.345.090, 82.24.010, 82.26.020, and 43.06.450; reenacting and amending RCW 82.26.010; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 43.348.900; prescribing penalties; and providing an effective date."

MOTION

Senator Kuderer moved that the following amendment no. 776 by Senator Kuderer be adopted:

Beginning on page 30, line 20, strike all of part III

Remember the remaining parts and sections consecutively and correct any internal references accordingly.

On page 44, line 2, after "page 1," strike all material through "date." on line 11 and insert "line 1 of the title, after "vapor" strike the remainder of the title and insert "products to fund cancer research and support local public health; amending RCW 66.08.145, 66.44.010, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, 70.345.010,

70.345.030, 70.345.090, and 43.06.450; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 43.348.900; prescribing penalties; and providing an effective date."

Senators Kuderer, Saldaña and Wilson, C. spoke in favor of adoption of the amendment to the striking amendment.

Senators Braun and Rivers spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of amendment no. 776 by Senator Kuderer on page 30, line 20 to striking amendment no. 767.

The motion by Senator Kuderer did not carry and amendment no. 776 was not adopted by a rising vote.

MOTION

Senator Kuderer moved that the following amendment no. 777 by Senator Kuderer be adopted:

On page 36, beginning on line 5, after "products," strike all material through "manufacturer" on line 8 and insert "sixty-five percent of the taxable sales price"

Senators Kuderer and Keiser spoke in favor of adoption of the amendment to the striking amendment.

Senator Braun spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of amendment no. 777 by Senator Kuderer on page 36, line 5 to striking amendment no. 767.

The motion by Senator Kuderer did not carry and amendment no. 777 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking amendment no. 767 by Senator Braun to Senate Bill No. 5986.

The motion by Senator Braun carried and striking amendment no. 767 was adopted by voice vote.

MOTION

On motion of Senator Braun, the rules were suspended, Engrossed Substitute Senate Bill No. 5986 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Braun and Kuderer spoke in favor of passage of the bill.

Senator Hasegawa spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5986.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5986 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner,

Walsh, Warnick and Wilson, C.

Voting nay: Senators Bailey, Brown, Hasegawa, Holy, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wellman, Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5986, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 22, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1155 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Cody, Sells, Mosbrucker and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Keiser moved the Senate grant the request of the House for a conference on Substitute House Bill No. 1155 and the Senate amendment(s) thereto.

Senator Keiser spoke for the motion to grant the request.

Senator Cleveland spoke against the motion to grant the request.

PERSONAL PRIVILEGE

Senator Walsh: "Thank you again Mr. President. Well, I rise because when we, in fact, debated this bill on the floor last week I made some comments that were very unfortunate and, frankly, insulted a great number of nurses in this nation. It was not my intention to do so and unfortunately, when things get posted on Facebook and they're taken out of context, it's very difficult to unravel the damage. But I've been trying to respond to the thirty thousand plus telephone calls and emails that I have received to my office with very hateful commentary about my remarks. So first and foremost, if, in fact, I insulted anybody, and apparently I insulted a lot of people, I truly do wish to apologize for those comments. I was very tired. We were on a long shift that day and I found myself saying things, because I was very tired, that I really wish I could take those words back, more than anything in the world. I have the most tremendous respect for nurses. I was in the hospital last year and the nurses are the one element that made that hospital stay bearable. I assure you. My mother was a registered nurse for many years. I have nothing but respect, and absolute admiration, for the work they do and the people they care for. My objection to this bill, frankly, had to do with the fact that the nurse staffing committees weren't even given a chance and the unions were down here pounding our doors to support a bill that I think, more appropriately, these issues should be worked out internally within our hospitals. It's disconcerting for me, as a legislator, a citizen legislator, to be proscribing to hospitals how they would staff their nurses. This is a business that isn't just your typical business. We're dealing with sick and dying people every day in our hospitals and the reality is that work should be

determined by the hospital staff and the administration. So I, again my comments were certainly harsh, I only meant to differentiate between the amount of work between an urban hospital and a rural hospital that has just a handful of patients. And, frankly, I'm very embarrassed for the comments but I'm also more embarrassed for the fact that this whole issue has been, sort of, gamed politically. And I'm really sorry for that. I try to be very transparent as a legislator and it's very disconcerting for me to have things posted on Facebook, and this is not the first time this year that it's happened. And people read those things and the hateful comments start. And it wouldn't be so bad if they were directed towards me. I'm obviously quite thick-skinned but my family is not. And my family is very upset about those comments. I'm hearing from them. And I just want to say, I'm not sure who posted the Facebook post. I'm not going to make any accusations here but the reality is you did all of us a disservice. It's stinky politics at its best and I'm really really sorry that we did this and we went down this road but, again, to any nurses that felt offended by my differentiating comment about a rural hospital, a critical access hospital, and an urban hospital, I truly do apologize. And again, please know how much respect I have for the nursing profession but I'm losing respect for the political profession the way we're operating around here and I would submit to you, Mr. President, that the Facebook stuff has got to stop. It is damaging and, frankly, it is putting a terrible taste in the mouth of all Americans when we behave like this. So, my apologies to anybody that was offended but my greater apology to the fact that we are destroying a good and solid political process of meaningful dialogue between two parties. And, to me, that is one of the greatest disappointments about what's happened. I'll survive this. I've had viral speeches before and I've dealt with them pretty well. I'll deal with this one too but I do want to at least express my concern about the way this thing has gone down. I'm hopeful we'll strip off the eight hour amendment – I'm kind of surprised that it hung, but the reality is it did. Let's fix the bill and you folks can vote for it. But again I, I appreciate the ability to get up and express my concerns about the way this whole thing has gone down. Thank you Mr. President."

The President declared the question before the Senate to be the motion by Senator Keiser to grant the House request for a conference.

A division was called for.

The motion by Senator Keiser carried and the request for a conference was granted by a rising vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1155 and the House amendment(s) thereto: Senators Dhingra, King and Van De Wege.

MOTIONS

On motion of Senator Liias, the appointments to the conference committee were confirmed without objection.

On motion of Senator Liias, the Senate advanced to the sixth order of business.

MOTION

At 2:41 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

ONE HUNDREDTH DAY, APRIL 23, 2019

2019 REGULAR SESSION

The Senate was called to order at 3:05 p.m. by President Habib.

SECOND READING

SENATE BILL NO. 6016, by Senators Liias, Rolfes and Hunt

Concerning the taxation of international investment management companies.

The measure was read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Carlyle and without objection, amendment no. 780 by Senator Carlyle on page 2, line 3 to Senate Bill No. 6016 was withdrawn.

MOTION

Senator Liias moved that the following amendment no. 779 by Senator Liias be adopted:

On page 5, after line 13, insert the following:

"(5) If a person engaged in the business of providing international investment management services no longer meets the Washington state employment eligibility requirements under subsection (1)(c) of this section, then an amount equal to the entire economic benefit accruing to the person in the current and immediately prior nine consecutive calendar years as a result of the preferential tax rate under RCW 82.04.290(1) is immediately due and payable.

(6) The department must assess interest, but not penalties, on the amounts due under this section. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW and accrue until the taxes for which a tax preference has been used are repaid."

Senator Liias spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 779 by Senator Liias on page 5, line 13 to Senate Bill No. 6016.

The motion by Senator Liias carried and amendment no. 779 was adopted by voice vote.

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Senate Bill No. 6016 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Liias spoke in favor of passage of the bill.
Senator Braun spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6016.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6016 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 1; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frock, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen,

Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Fortunato, Hasegawa, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, L. and Zeiger

Absent: Senator Walsh
Excused: Senator Ericksen

ENGROSSED SENATE BILL NO. 6016, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5001,
SUBSTITUTE SENATE BILL NO. 5012,
SUBSTITUTE SENATE BILL NO. 5106,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5383,
SUBSTITUTE SENATE BILL NO. 5405,
SECOND SUBSTITUTE SENATE BILL NO. 5433,
SECOND SUBSTITUTE SENATE BILL NO. 5437,
ENGROSSED SECOND SUBSTITUTE
SENATE BILL NO. 5438,
SENATE BILL NO. 5508,
SUBSTITUTE SENATE BILL NO. 5550,
ENGROSSED SENATE BILL NO. 5573,
SECOND SUBSTITUTE SENATE BILL NO. 5577,
SUBSTITUTE SENATE BILL NO. 5670,
SUBSTITUTE SENATE BILL NO. 5723,
SENATE BILL NO. 5918,

MOTION

At 3:13 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:32 p.m. by President Habib.

MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:
The House has passed:

ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2042,
and the same are herewith transmitted.
NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

SUPPLEMENTAL INTRODUCTION AND FIRST READING

E2SHB 2042 by House Committee on Finance (originally sponsored by Fey, Orcutt, Slatter, Doglio, Tharinger and Ramos)

AN ACT Relating to advancing green transportation adoption; amending RCW 28B.30.903, 46.17.323, 47.04.350, 80.28.---, 80.28.360, 82.04.4496, 82.08.816, 82.12.816, 82.16.0496, 82.29A.125, and 82.44.200; amending 2019 c ... (SHB 1512) s 1 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 47.04 RCW; adding a new section to chapter 47.66 RCW; creating new sections; providing effective dates; and providing expiration dates.

Referred to Committee on Transportation.

MOTION

On motion of Senator Liias, the measure listed on the Supplemental Introduction and First Reading report was referred to the committee as designated.

MOTION

At 5:34 p.m., on motion of Senator Liias, the Senate adjourned until 10:00 o'clock a.m. Wednesday, April 24, 2019.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

1026
Messages 3

1041-S
Messages 3

1062
Messages 3

1065-S2
Messages 3

1094-SE
Messages 3

1095-S
Messages 3

1105-S2E
Messages 4

1114-S2E
Messages 4

1130-SE
Messages 4

1155-S
Messages 66
Other Action..... 66, 67

1197-S
Messages 4

1252
Messages 4

1284-S
Messages 3

1302-S
Messages 3

1311-S2E
Messages 4

1325-SE
Messages 4

1344-S2
Messages 4

1366
Messages 4

1377-S
Messages 4

1391-S2E
Messages 4

1424-S2
Messages 4

1428-SE
Messages 4

1450-SE
Messages 3

1486
Messages 3

1517-S2E
Messages 4

1528-S2
Messages 4

1543-S2E
Messages 4

1561
Messages 4

1575-S
Messages 3

1579-S2
Messages 3

1587-S
Messages 4

1602-S
Messages 3

1603-S2
Messages 3

1646-S2E
Messages 3

1658-S
Messages 3

1668-S2
Messages 3

1672
Messages 3

1714
Messages 3

1724-S
Messages 3

1727
Messages 3

1730
Messages 3

1732-SE
Messages 3

1734-S
Messages 3

1746-S
Messages 3

1772-SE
Messages 3

1784-S2
Messages 3

1798-S

Messages.....	3	5106-S	
1803		President Signed.....	67
Messages.....	3	5124	
1817-SE		Governor signed.....	2
Messages.....	4	5127-SE	
1879-SE		President Signed.....	4
Messages.....	4	5131-SE	
1900		Governor signed.....	2
Messages.....	4	5132	
1919-S		President Signed.....	4
Messages.....	4	5148-E	
1953-S		Governor signed.....	3
Messages.....	4	5166-S	
1973-S2		President Signed.....	4
Messages.....	4	5175-S	
1996-E		Governor signed.....	3
Messages.....	4	5179	
2042-S2E		Final Passage as amended by House.....	7
Introduction & 1st Reading.....	68	Messages.....	7
Messages.....	68	Other Action.....	7
5001-SE		5181-S	
President Signed.....	67	President Signed.....	4
5010-S		5205	
President Signed.....	4	President Signed.....	4
5012-S		5210-E	
President Signed.....	67	President Signed.....	4
5017-S		5212-S	
President Signed.....	4	President Signed.....	4
5021-S2		5218-S	
President Signed.....	4	President Signed.....	4
5022		5233	
President Signed.....	4	President Signed.....	4
5023-S		5260	
President Signed.....	4	Final Passage as amended by House.....	9
5027-SE		Messages.....	8
President Signed.....	4	Other Action.....	8
5028-S		5266-S	
Messages.....	4	Final Passage as amended by House.....	12
5035-SE		Messages.....	9
President Signed.....	4	Other Action.....	12
5054		5272-SE	
Final Passage as amended by House.....	7	Final Passage as amended by House.....	12
Messages.....	5	Messages.....	12
Other Action.....	6	Other Action.....	12
5063-S		5278-S	
President Signed.....	4	Messages.....	4
5088		5284-S2E	
President Signed.....	4	Final Passage as amended by House.....	31

Messages.....	25	5410-SE	
Other Action.....	30	Final Passage as amended by House.....	36
5287-S2		Messages.....	35
Final Passage as amended by House.....	14	Other Action.....	35
Messages.....	13	5418-SE	
Other Action.....	13	Final Passage as amended by House.....	46
5288-SE		Messages.....	36
Messages.....	4	Other Action.....	46
5298-SE		5425-S	
Final Passage as amended by House.....	17	Final Passage as amended by House.....	50
Messages.....	14	Messages.....	46
Other Action.....	17	Other Action.....	50
5300		5429-E	
President Signed.....	4	Final Passage as amended by House.....	52
5305-S		Messages.....	50
Governor signed.....	3	Other Action.....	51
5318-SE		5432-S2E	
Final Passage as amended by House.....	25	President Signed.....	4
Messages.....	17	5433-S2	
Other Action.....	25	President Signed.....	67
5324-S		5437-S2	
Final Passage as amended by House.....	33	President Signed.....	67
Messages.....	31	5438-S2E	
Other Action.....	33	President Signed.....	67
5330-SE		5439-E	
Final Passage as amended by House.....	34	Governor signed.....	3
Messages.....	33	5461-S	
Other Action.....	34	Governor signed.....	3
5334-E		5474-S	
President Signed.....	4	Messages.....	4
5337		5490	
Messages.....	4	Governor signed.....	3
5350		5492-S	
Messages.....	4	Messages.....	4
5352-S2		5502-S	
Governor signed.....	3	Messages.....	4
5356-S2E		5508	
Final Passage as amended by House.....	35	President Signed.....	67
Messages.....	34	5514-S	
Other Action.....	34	Governor signed.....	3
5383-SE		5550-S	
President Signed.....	67	President Signed.....	67
5399-S		5566	
Governor signed.....	3	Messages.....	4
5403-S		5573-E	
Governor signed.....	3	President Signed.....	67
5405-S		5577-S2	
President Signed.....	67	President Signed.....	67

5612-S		6016	
Governor signed.....	3	Other Action.....	67
5621-S		Second Reading	67
Governor signed.....	3	6016-E	
5649		Third Reading Final Passage	67
Governor signed.....	3	8005	
5670-S		Messages	4
President Signed.....	67	8015	
5689-S		Introduction & 1st Reading.....	1
President Signed.....	4	8200	
5723-S		Messages	4
President Signed.....	67	8630	
5763-S		Adopted.....	2
Messages	4	Introduced	1
5786		8653	
Governor signed.....	3	Adopted.....	2
5831		Introduced	2
Governor signed.....	3	9211 Drew, Steven	
5851-S		Confirmed	5
Messages	4	9226 Dietz, Alice	
5865		Confirmed	4
Messages	4	CHAPLAIN OF THE DAY	
5874-SE		Paine, Mr. Arthur, Lt. Colonel, Chaplain,	
Messages	4	194th Wing, Washington Air National	
5885-S		Guard, Camp Murray	1
Governor signed.....	3	FLAG BEARERS	
5903-S2		Juan, Mr. Bruno Felipe	1
President Signed.....	5	Mahlum, Mr. Phin.....	1
5918		GUESTS	
President Signed.....	67	Aperjis, Miss Nejme, Pledge of Allegiance..	1
5958-E		Bustos, Ms. Robbie, PACE program	
Governor signed.....	3	coordinator and Bud Clary Toyota of	
5959-SE		Yakima outreach coordinator.....	2
Governor signed.....	3	Jones, Mr. Colby, General Manager, Bud	
5986		Clary Toyota of Yakima	2
Second Reading	52	Langston, Mr. & Mrs. K.D. and Tami	2
5986-S		Stewart, Mr. & Mrs. Greg and Karen	2
Second Reading	52, 65	MESSAGE FROM GOVERNOR	2
5986-SE		WASHINGTON STATE SENATE	
Third Reading Final Passage	66	Personal Privilege, Senator Walsh.....	66